



THE SUPREME COURT OF TEXAS

THE TEXAS COURT OF CRIMINAL APPEALS

Judicial Commission on Mental Health

January 25, 2019
Meeting Notebook

The State Bar of Texas – Texas Law Center
1414 Colorado Street
Austin, Texas 78701

Judicial Commission on Mental Health

January 25, 2019
Meeting Notebook

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Judicial Commission on Mental Health

State Bar of Texas, Texas Law Center

Austin, Texas

January 25, 2019

9:30 a.m. to 2:30 p.m.

AGENDA

9:30 Welcome and Announcements	Judge Barbara Hervey
9:45 Executive Director Report <ul style="list-style-type: none">• Strategic Plan• Summit• Bench Book• Critical Points Round Table	Kristi Taylor Judge Brent Carr Judge Camile DuBose Adrienne Kennedy
10:00 Emergency Detention Round Table Report	Professor Brian Shannon
10:10 Presentations on <ul style="list-style-type: none">• ID in the Criminal Justice System• IDD History in Texas• IDD Survey Proposal• IDD Service Delivery	Colleen Horton Dr. William Schnapp Dr. Virginia Brown Assoc. Comm. Haley Turner
11:00 Break	
11:15 Health and Human Services Commission Report	Dep. Exec. Comm. Sonja Gaines Dep. Exec. Comm. Mike Maples
12:00 Working Lunch	Justice Jeff Brown
12:20 Jurist in Residence Report	Judge John Specia (ret.)
12:30 Legislative Update and Discussion	David Slayton
2:30 Adjourn	

Insert Tab 1

JUDICIAL COMMISSION ON MENTAL HEALTH COMMISSIONERS

Hon. Jeff Brown, Co-Chair

Justice
Supreme Court of Texas

Hon. Barbara Hervey, Co-Chair

Judge
Texas Court of Criminal Appeals

Hon. Bill Boyce, Vice Chair

Justice (Ret.)
Fourteenth Court of Appeals

Camille Cain

Executive Director
Texas Juvenile Justice Department

Hon. Brent Carr

Judge
Tarrant County, Criminal Court No. 9

Terry Crocker

Chief Executive Officer
Tropical Texas Behavioral Health

Gerald Davis

President and CEO
Goodwill Industries of Central Texas

Hon. Francisco Dominguez

Judge
El Paso County, 205th Judicial District Court

Hon. Camile DuBose

Judge
Medina County, 38th Judicial District

Dr. Tony Fabelo

Senior Fellow for Justice Policy
Meadows Mental Health Policy Institute

Sonja Gaines

Deputy Executive Commissioner for Intellectual and Developmental Disabilities
Texas Health and Human Services Commission

Hon. Ernie Glenn

Drug Court Magistrate
Bexar County

JUDICIAL COMMISSION ON MENTAL HEALTH COMMISSIONERS

Hon. Sid Harle

District Court Judge
Bexar County, 226th Criminal District Court

Courtney Hjaltman

Policy Advisor
Office of the Governor

Hon. Joan Huffman

Senator, District 17
Texas Senate

Dr. Andrew Keller

President and CEO
Meadows Mental Health Policy Institute

Adrienne Kennedy

President
National Alliance on Mental Illness

Hon. M. Sue Kurita

Judge
El Paso County Court at Law No. 6

Beth Lawson

Chief Executive Officer
StarCare Specialty Health System

Major Mike Lee

Mental Health & Jail Diversion Bureau
Harris County Sheriff's Office

Mike Maples

Deputy Executive Commissioner for Health and Specialty Care System
Texas Health and Human Services Commission

Dr. Octavio Martinez

Executive Director
Hogg Foundation for Mental Health

Hon. Stacey Mathews

Judge
Williamson County, 277th District Court

Chief James McLaughlin

Executive Director
Texas Police Chiefs Association

JUDICIAL COMMISSION ON MENTAL HEALTH COMMISSIONERS

Beth Mitchell

Supervising Attorney
Disability Rights Texas

Tom Mitchell

Director of Jail Diversion Services
The Harris Center for Mental Health and IDD

Hon. Joe Moody

Representative, District 78
Texas House of Representatives

Hon. Roxanne Nelson

Justice of the Peace
Burnet County Precinct 1

Hon. Robert Newsom

Judge
Hopkins County

Denise Oncken

Bureau Chief
Harris County District Attorney, Mental Health Bureau

Hon. Harriet O'Neill

Justice (Ret.)
Harriet O'Neill Law Office

Dr. William Schnapp

Mental Health Policy Advisor
Harris County

Prof. Brian Shannon

Paul Whitfield Horn Professor
Texas Tech University School of Law

Reginald Smith

Policy Analyst
Texas Criminal Justice Coalition

Hon. Polly Jackson Spencer

Judge (Ret.)
Bexar County Probate Court

Hon. Cynthia Wheless

Judge
Collin County, 417th Judicial District Court

JUDICIAL COMMISSION ON MENTAL HEALTH COLLABORATIVE COUNCIL

Hon. Mark Allen

Judge
Jasper County

Trey Apffel

Executive Director
State Bar of Texas

David Aronofsky

Professor
American Law Institute

Hon. Mark Atkinson

Chief Executive Officer
Texas Center for the Judiciary

Hon. Daphne Previti Austin

Judge (Ret.)
Bexar County, 289th Juvenile District Court

Lauren Bledsoe

Trauma-Informed Care Program Specialist
Department of Family Protective Services

Jay Brandon

Assistant District Attorney
Bexar County

Dr. Virginia Brown

Assistant Professor
Dell Medical Center at University of Texas

Geoff Burkhart

Executive Director
Texas Indigent Defense Commission

Hon. Nelda Cacciotti

Judicial Staff Counsel/Mental Health Magistrate
Tarrant County

Angel Carroll

Emerging Adult Policy Associate
Lone Star Justice Alliance

Seth Christensen

Director of Stakeholder Relations
Texas Juvenile Justice Department

JUDICIAL COMMISSION ON MENTAL HEALTH COLLABORATIVE COUNCIL

Hon. Rex Davis

Justice
Tenth Court of Appeals

Leah Davies

Project Manager, Strategic Health Alliance
Texas Center for Disability Studies
University of Texas at Austin

Alyse Ferguson

Chief Attorney
Collin County Mental Health Managed Counsel

Lesli Fitzpatrick

Specialty Court Coordinator
Williamson County DWI/Drug Court

Gilbert Gonzales

Director
Department of Behavioral and Mental Health
Bexar County

Greg Hansch

Public Policy Director
NAMI Texas

Dr. Courtney Harvey

Forensic Director
Texas Health and Human Services Commission

Elizabeth Henneke

Executive Director
Lone Star Justice Alliance

Colleen Horton

Policy Program Officer
Hogg Foundation for Mental Health

Angelita Hunter

Judicial Clerk
City of McKinney Municipal Court

Trina K. Ita

Associate Commissioner
Medical & Social Services (MSS) Division, Behavioral Health Services
Texas Health and Human Services Commission

JUDICIAL COMMISSION ON MENTAL HEALTH COLLABORATIVE COUNCIL

Hon. David Jahn

Associate Judge
Denton County Probate Court

Lee Johnson

Deputy Director
Texas Council of Community Centers, Inc.

Windy Johnson

Program Manager, IGR
Texas Conference of Urban Counties

Louise Joy

Attorney
Joy & Young, LLP

Hon. Evelyn Keyes

Justice
First Court of Appeals

Chris Lopez

Assistant General Counsel
HHSC State Hospital

Mike Lozito

Judicial Services Director
Bexar County

Trish McAllister

Executive Director
Texas Access to Justice Commission

Jennifer Yip Marshall

Survivors of Trafficking Empowerment
Program (STEP) Supervisor
Refugee Services of Texas

Hon. Lela Mays

Magistrate Judge
Successful Treatment of Addiction through Collaboration (STAC)
Criminal District Court

Joanna Mendez

Community Wellness Counselor
Refugee Services of Texas

JUDICIAL COMMISSION ON MENTAL HEALTH COLLABORATIVE COUNCIL

Allen Place

Head Lobbyist
Texas Criminal Defense Lawyers Association

Shea Place

Lobbyist
Texas Criminal Defense Lawyers Association

Terry Qualls

Crisis Intervention Coordinator
McKinney Police Department

Janis Reinken

Chief Clerk
House Committee on Corrections

Michelle Romero

Associate Director
Texas Medical Association

Melissa Schank

Executive Director
Texas Criminal Defense Lawyers Association

Brigid Sheridan

Associate General Counsel
University Health System

Matt Smith

Assistant Executive Director/
Director of Mental Health Services
Williamson County Juvenile Services

Lt. Scott Soland

Fort Bend County Sheriff's Office

Jeanne Stamp

Director
Texas Homeless Education Office
West Pickle Research Building

Hon. Charles Stephens

Judge
Comal County Court at Law #2

JUDICIAL COMMISSION ON MENTAL HEALTH COLLABORATIVE COUNCIL

Larry Temple

Executive Director
Texas Workforce Commission

Gloria Terry

Chief Executive Officer
Texas Council on Family Violence

Rick Thompson

Senior Legislative Manager
Texas Association of Counties

Hon. Ryan Kellus Turner

General Counsel and Director of Education
Texas Municipal Court Education Center

Keona Ugwuh

Community Supervision Officer
Dallas County

Dee Wilson

Texas Correctional Office on Offenders with
Medical or Mental Impairments

Dennis Wilson

Sheriff, Limestone County
Sheriff's Association

Steve Wohleb

Senior Vice President/General Counsel
Texas Hospital Association

Julie Wayman

Behavioral and Mental Health School Health & Related Services Coordinator
Texas Education Agency

Thea Whalen

Executive Director
Texas Justice Courts Training Center

Brandon Wood

Executive Director
Texas Commission on Jail Standards

Christine Yanas

Director of Governmental Affairs
Methodist Healthcare Ministries

**JUDICIAL COMMISSION ON MENTAL HEALTH
COLLABORATIVE COUNCIL**

April Zamora

Director, Reentry and Integration Division/
Texas Correctional Office on Offenders with Medical or Mental Impairments
Texas Department of Criminal Justice

Insert Tab 2

**JUDICIAL COMMISSION ON MENTAL HEALTH
MINUTES OF MEETING
May 15, 2018
9:30 a.m. – 3:00 p.m.
State Bar of Texas – Texas Law Center
Austin, Texas**

ATTENDANCE

Commissioners	Attended	Did Not Attend
Hon. Jeff Brown, Co-Chair, Supreme Court of Texas	✓	
Hon. Barbara Hervey, Co-Chair, Texas Court of Criminal Appeals	✓	
Hon. Bill Boyce, Vice Chair, Justice, Fourteenth Court of Appeals	✓	
Camille Cain, Executive Director, Texas Juvenile Justice Department		✓
Hon. Brent Carr, Judge, Tarrant County, Criminal Court No. 9	✓	
Terry Crocker, Chief Executive Officer, Tropical Texas Behavioral Health	✓	
Gerald Davis, President and CEO, Goodwill Industries of Central Texas	✓	
Hon. Francisco Dominguez, Judge, El Paso County, 205th Judicial District Court	✓	
Hon. Camile DuBose, Judge, Medina County, 38th Judicial District	✓	
Dr. Tony Fabelo, Senior Fellow for Justice Policy, Meadows Mental Health Policy Institute	✓	
Sonja Gaines, Deputy Executive Commissioner for Intellectual and Developmental Disabilities	✓	
Hon. Ernie Glenn, Drug Court Magistrate, Bexar County	✓	
Hon. Sid Harle, District Court Judge, Bexar County, 226th Criminal District Court	✓	
Courtney Hjaltman, Policy Advisor, Office of the Governor	✓	
Hon. Joan Huffman, Senator, District 17, Texas Senate		
Dr. Andrew Keller, President and CEO, Meadows Mental Health Policy Institute	✓	
Adrienne Kennedy, President, National Alliance on Mental Illness	✓	
Hon. M. Sue Kurita, Judge, El Paso County Court at Law No. 6	✓	
Beth Lawson, Chief Executive Officer, StarCare Specialty Health System	✓	
Major Mike Lee, Mental Health & Jail Diversion Bureau, Harris County Sheriff's Office	✓	
Mike Maples, Deputy Executive Commissioner for Health and Specialty Care System	✓	
Dr. Octavio Martinez, Executive Director, Hogg Foundation for Mental Health	✓	
Hon. Stacey Mathews, Judge, Williamson County, 277th District Court	✓	
Chief James McLaughlin, Executive Director, Texas Police Chiefs Association	✓	
Beth Mitchell, Supervising Attorney, Disability Rights Texas	✓	
Tom Mitchell, Director of Jail Diversion Services, The Harris Center for Mental Health/IDD	✓	
Hon. Joe Moody, Representative, District 78, Texas House of Representatives	✓	
Hon. Roxanne Nelson, Justice of the Peace, Burnet County Precinct 1	✓	
Hon. Robert Newsom, Judge, Hopkins County		✓
Denise Oncken, Bureau Chief, Harris County District Attorney, Mental Health Bureau	✓	
Hon. Harriet O'Neill, Justice (ret.), Harriet O'Neill Law Office	✓	
Dr. William Schnapp, Mental Health Policy Advisor, Harris County	✓	
Prof. Brian Shannon, Paul Whitfield Horn Professor, Texas Tech University School of Law	✓	

Reginald Smith, Policy Analyst, Texas Criminal Justice Coalition ✓
Hon. Polly Jackson Spencer, Judge (ret.), Bexar County Probate Court ✓
Hon. Cynthia Wheless, Judge, Collin County, 417th Judicial District Court ✓

Collaborative Council

Trey Apffel
David Aronofsky
Judge Mark Atkinson
Jay Brandon
Virginia Brown
Geoff Burkhart
Judge Nelda Cacciotti
Angel Carroll
Chris Yanas
Justice Rex Davis
Scott Ehler
Alyse Ferguson
Lesli Fitzpatrick
Laura V. Garcia
Gilbert Gonzales
Greg Hansch
Dr. Courtney Harvey
Andrew Hendrickson (for Chris Willuhn)
Elizabeth Henneke
Colleen Horton
Trina K. Ita
Judge Dave Jahn
Lee Johnson
Windy Johnson
Alex Jones
Justice Evelyn Keyes
Chris Lopez
Mike Lozito
Trish McAllister
Terry Qualls
Janis Reinken
Michelle Robero
Jeanne Stamp
Hon. Charles Stephens
Larry Temple
Gloria Terry
Hon. Ryan Kellus Turner
William Turner
Julie Wayman
Thea Whalen

Dennis Wilson
Steve Wohleb
Hilary Young
April Zamora

Guests

Shannon Edmonds
Heather Fleming
Carey Green
Richard Morrison
Phil Ritter
David Slayton
Paul Smithers

CALL TO ORDER AND OPENING REMARKS, Chief Justice Hecht

Chief Justice Nathan Hecht stated his primary expectations of the JCMH were to facilitate profound change and to see immediate progress. Further, he stated that as a group, the JCMH must be able to demonstrate by the end of this year and the beginning of the next legislative session that it can get things done.

He expressed his gratitude to Tina Amberboy, Kristi Taylor, and the staff of the Children’s Commission for their work thus far, and extended the support of the Supreme Court, the Court of Criminal Appeals, and the Judicial Council in all efforts to help facilitate the work of the JCMH moving forward.

Presiding Judge Sharon Keller pointed to the joint hearing that precipitated the founding of the JCMH and specifically referenced compelling testimony from parents of children with mental illness or intellectual and developmental disabilities as examples that the Texas criminal justice system continues to serve as a default provider of mental health services for many individuals. She stated that most will be sent home without adequate treatment where the consequences of inadequate treatment for mental illness will result in repeat episodes that are damaging to their families and communities. She stated that she believes the Commission will be instrumental in changing the outcomes for such families, as she has seen improvements in the administration of justice on highly complex issues such as those the JCMH will address through judicially led interdisciplinary initiatives in the state of Texas.

Judge Barbara Hervey stated that her goal for the Commission is that it contributes to a shift in how courts talk about and treat people with mental health issues. She stated that the stigma about mental illness is still in existence although it is getting better. According to the Meadows Foundation, 9 in 10 Texans believe it’s harder for people to talk about a mental health issues than it is to talk about a physical health issue. The stigma prevents people from getting the help they need; especially in African American and Hispanic communities. The National Association of Mental Illness estimates that 1 in 5 adults in the U.S. will experience themselves or know someone with mental illness in their

lifetime. She pointed to a Meadows Foundation campaign called, “Okay to Say,” and reiterated that it needs to be “okay to say” in courts and in turn, for courts to be able to respond in a positive way with knowledge, compassion and resources for treatment.

Justice Jeff Brown concluded opening remarks by reiterating the historical context from which the Commission was formed. He stated that he looks forward to working with the Commission to address the very serious problems that face Texans with mental issues. He pointed to both the civil commitment process and the juvenile justice system as areas especially in need of attention. He stated that the Commission should expect our state’s best and brightest to be drawn to this work to lend their talents and for the Commission to organize those efforts for the best outcomes for those affected by mental illness and intellectual and developmental disabilities.

Commissioner Introductions:

Dr. Octavio Martinez has been the Executive Director of the Hogg Foundation for Mental Health since August of 2008. The Foundation awards grants and scholarships across the state of Texas. He recognized Colleen Horton, Director of Policy for the Hogg Foundation, and a member of the Collaborative Council. Dr. Martinez stated that they would like to see the Commission work on the racial disparities that exist in the criminal justice system and that affect both our urban and rural areas.

Representative Joe Moody is the state representative of El Paso and the ex officio member appointed by Speaker Straus. He is currently serving as the Chair of the Criminal Jurisprudence Committee, the Vice Chair of the General Investigating and Ethics Committee, and the Vice Chair of the Opioid Committee. He stated that the Texas State Government Speakers have elevated the issues of mental health and substance use disorders and are trying to figure out different ways to prevent people who may be better served elsewhere from entering the criminal justice system.

Ms. Courtney Hjaltman introduced both herself and Heather Fleming of the Governor’s Office. They feel that it’s important to help get the right resources and people going to the right places instead of going to state hospitals.

Ms. Beth Mitchell is with Disability Rights of Texas. She has worked with the agency for over 20 years. They are a federally funded agency that advocates for and protects people with disabilities. She stated that her primary concern is that the Commission include the needs of people with intellectual disabilities as it moves forward. She stated that this segment of the population is woefully neglected and, once incarcerated, tends to sit in jail for the longest amount of time before being moved to the appropriate facility.

Dr. Bill Schnapp has been teaching forensic psychiatry at the University of Texas Medical School for 25 years. He has been appointed to the State Board of Mental Health and Mental Retardation and was the first Chair of the Texas Council on Offenders with Mental Impairments. He stated that he

agrees that IDD is a very important issue and hopes that the Commission can work to bring collaboration to the criminal justice system.

Judge Brent Carr of Fort Worth has 27 years of judicial experience. He shared his experiences as the founder and judge of many court programs that have addressed issues from human trafficking, to homelessness, to mental illness and veterans' issues. He stated that he feels that the criminal justice system needs to undergo systemic change with a focus on alternatives for people with mental illness other than county jails and state prisons.

Dr. Andy Keller is the President and Chief Executive Officer of the Meadows Mental Health Policy Institute. He provided a brief explanation of the Meadows Policy Institute and its work. He emphasized the importance of providing care before individuals reach the justice system and provided relevant statistics.

Dr. Tony Fabelo is a Senior Fellow for domestic Policy with the Meadows Mental Health Policy Institute. Dr. Fabelo described his background and prior and current work experience, including legislative work and work with counties on magistration and early assessment.

Judge Sid Harle is a District Judge in Bexar County and Regional Presiding Judge for the Fourth Judicial Region. He shared his experiences having dealt with mental health issues in the criminal justice system regularly for 30 years. He described a case over which he is presiding in which the system failed to produce a desirable outcome. As such, he stated that his goals include early identification, treatment, and diversion.

Mr. Mike Maples is the Deputy Executive Commissioner at the Health and Human Services Commission over state-operated facilities. He shared his focus on capacity use of existing mental health facilities and related strategies.

Ms. Sonja Gaines is the Associate Commissioner for Intellectual-Developmental Disabilities and Behavioral Health Services with the Health and Human Services Commission. She discussed her background as Associate Commissioner for Mental Health Coordination, as Chief of Mental Health Services in Tarrant County, and as a former case manager. She stated that she is interested in developing a unified approach to behavioral health services that would allow all Texans to have access to care at the right time and at the right place.

Judge Bill Boyce is a Justice on the 14th Court of Appeals in Houston. He is also serving as Chair of the Texas Judicial Council, Committee on Guardianship, Mental Health, and Intellectual and Developmental Disability, and helped spearhead the creation of the JCMH. He thanked the Children's Commission for its role in launching the JCMH.

Ms. Sian Schilhab is General Counsel for the Court of Criminal Appeals. She stated that she is pleased to help the JCMH in any way she can as support staff.

Judge Barbara Hervey is a long-serving Judge on the Court of Criminal Appeals and encounters mental health issues daily in her work. She has family members with mental health and IDD needs and is eager to see what the JCMH can accomplish.

Judge Jeff Brown is a Justice on the Supreme Court and has previously served as a trial judge and appellate judge in Houston. He's pleased to be co-chairing the Commission and eager to work with everyone.

Ms. Nina Hsu serves as General Counsel for the Supreme Court of Texas. She stated that she is excited to see the Commission come to fruition.

Ms. Tina Amberboy introduced herself as the Executive Director of the Supreme Court Children's Commission, one of the models for the JCMH.

Professor Brian Shannon is a law professor at Texas Tech, serves on the board for StarCare in Lubbock, and is a past board member of NAMI Texas and Disability Rights when it was known as Advocacy, Inc. He described his brother's struggles with mental illness and his mother's leadership at NAMI. He is eager to advance outpatient competency-restoration programs, especially in rural areas; law-enforcement training; and mental health and veterans' courts.

Judge Harriet O'Neill is a former Justice on the Supreme Court and Houston Court of Appeals and sits on the St. David's Foundation Board. She is the founder of the Children's Commission and credits staff Tina Amberboy and Kristi Taylor with its success. She urges the Commission to focus on measuring outcomes and progress. She discussed the power of the judiciary and emphasized collaboration.

Judge Stacey Mathews is a District Court Judge in Williamson County. She discussed her extensive and diverse professional experience and her interest in applying that experience to effectuate systemic change. She emphasized the need to work across systems and learn from each other.

Judge Roxanne Nelson is Justice of the Peace, Precinct 1 in Burnet County and Associate Judge for the cities of Granite Shoals and Burnet. She discussed her family's struggles with mental illness and how those experiences influenced her. She highlighted the unique challenges faced by rural counties and the need to change attitudes and treatment of incarcerated individuals.

Mr. Terry Crocker is the Chief Executive Officer at Tropical Texas Behavioral Health in the Rio Grande Valley. He talked about the substantial and growing need for mental health and IDD services and relative lack of available services and infrastructure. He also emphasized the need for improved collaboration.

Ms. Denise Oncken is a prosecutor with the Harris County District Attorney's Office Mental Health Bureau. She agreed that collaboration is key. Her office is focusing on pre-charging diversion efforts for low level offenders. She agreed that incarceration is not the solution for those with mental health needs.

Ms. Adrienne Kennedy described her experience in losing a son to mental illness. She emphasized the importance of focusing on each intercept and on identifying and addressing breakdowns in the intercept system. She offered her full support of the Commission moving forward.

Judge Francisco Dominguez is the Presiding Judge of the 205th District Court located in El Paso. He shared his experiences addressing mental health issues in the criminal justice system and expressed his goal of having a mental health court that focuses on pretrial work.

Mr. Reginald Smith is a Peer Policy Fellow at Communities for Recovery at the Austin State Hospital. He is also a policy analyst at Texas Criminal Justice Coalition, and a member of the Austin Travis County Board of Directors for the Sobering Center. Mr. Smith shared his personal experiences with mental illness and addiction and shared that he hopes to represent people who have been impacted by the systems the Commission hopes to address. He also hopes to provide feedback regarding what it's like to interact with these systems from personal experience.

Judge Cindy Wheless is the presiding judge of the 417th District Court, with both general and juvenile jurisdiction. She stated that her two primary goals are removing the stigma associated with mental illness, and that judges will be mindful of their effect on other justice systems.

Judge Camille DuBose is the District Judge of the 38th Judicial District. She stated that she has an ad-hoc mental health court that focuses on felony post-adjudication mental health. As such, she stated that her main concerns as a member of the Commission are that the needs of Texas's rural areas are met, that family support is addressed, and that judicial education is also addressed.

Chief James McLaughlin is both General Counsel and the Executive Director for the Texas Police Chiefs Association. With almost 50 years of law enforcement experience, he stated his focus is on how best to leverage resources when addressing mental crisis.

Ms. Beth Lawson is the CEO of StarCare Specialty Health System in Lubbock, the local mental health/IDD authority. She shared her goals for the Commission: bringing the judiciary to the ongoing efforts of the executive and legislative branches, providing expertise, and continued advocacy for prevention and treatment.

Judge Ernie Glenn oversees a felony drug court program in Bexar County. He shared his experiences spanning 38 years in the mental health arena, highlighting the positive effects of pre-trial diversion.

Mr. Tom Mitchell is a licensed professional counselor and the Executive Director of U.S. Vets of Texas. As a Vietnam veteran himself, he would like to both represent the needs of veterans and bring a focus on previous psychosocial programs that saw success in addition to new and innovative programs.

Major Mike Lee of the Mental Health Bureau of the Harris County Sheriff's Office expressed that mental health is one of the most pressing issues facing law enforcement across the country. He also stated that legislation, education, and shared intelligence are issues that he would like the Commission to prioritize.

Mr. Jerry Davis is the President of Goodwill Industries of Central Texas. He shared that he would like to work toward destigmatizing mental illness, collaboration across agencies, and recognizing mental illness and intellectual disabilities as two distinct groups requiring distinct solutions.

Judge Polly Spencer emphasized that the Commission should focus on incremental change toward its goals. She discussed the possibility of mental health courts that span both jurisdictions, criminal and civil.

Judge Sue Kurita of El Paso emphasized two issues; awareness and providing a voice for her respective community, specifically a border town with a large military and veteran population.

Mr. David Slayton, Director of the Office of Court Administration (OCA) and of the Texas Judicial Council, stated that he hopes the Commission will focus on finding ways to better educate family members about the signs of mental illness, and what to do when they spot them. He also hopes the Commission will focus on providing similar education to municipal court judges and staff. Juvenile justice and juvenile courts should also be areas of focus.

Mr. Slayton also advised the Commission that the OCA can be utilized as a data resource if needed. He also discussed the issue of potential of either under-reporting or under-assessment regarding OCA monthly mental health assessment statistics. Additionally, he addressed the outpatient and civil commitment process as one of the fastest growing caseloads in Texas, and as such, an important area for the Commission moving forward. Slayton also stated that mental health training is available for judges and magistrates, with a section on the agency's website dedicated to mental health training as well.

Judge John Specia, retired San Antonio District Judge and former Commissioner of the Dept. of Family and Protective Services, his focus is identifying tools and providing those tools to people on the front line.

Ms. Kristi Taylor, JCMH Executive Director, thanked all in attendance and especially thanked the Children's Commission for their efforts to assist the JCMH as it continues to expand. Kristi directed everyone to tab five and provided an overview of the JCMH's budget and plans for the fall summit, to be held on October 22nd and 23rd, 2018. She welcomed suggestions regarding the summit's curriculum and asked anyone interested to take part in the curriculum committee. She also presented working ideas of the subjects to be discussed and the speakers and organizations that will be in attendance. Kristi highlighted that funds are available to help cover travel and registration fees for counties that may not have the budget to do so.

Kristi outlined several ways the JCMH can assist moving forward: summaries of meetings will be provided for Commission members to share and guests are encouraged; the JCMH will emphasize communications and will work toward developing a simple branding plan including a logo and tag line; finally, she mentioned a match form, available for all Commission members to utilize voluntarily. These match forms will help the JCMH to note working hours contributed to the Commission and monetize the work each member contributes to be used for reports for the legislature.

Next, Kristi discussed the results of a survey sent to Commission members. Results indicate high level goals for the Commission moving forward: collaboration, identifying measurable outcomes, training and education, and eventually becoming a clearinghouse for sharable data. Kristi noted that these results will be utilized to construct the Commission's strategic plan and invited anyone interested to take part in the strategic planning committee, with a goal of having a plan in place by the Commission's August meeting. Kristi also outlined the Commission's long-term goals and emphasized utilizing the Commission's suggestions of working toward goals via smaller work groups.

Comments from the Collaborative Council

Justice Brown introduced members of the Collaborative Council.

Colleen Horton of the Hogg Foundation for Mental Health highlighted the importance of recognizing the strong intersection between intellectual disabilities and mental health and the areas where services fall short for this population. She stated that she hopes the Commission will focus on providing this population with the true mental health services they deserve.

Michelle Romero, Director of Legislative Affairs for the Texas Medical Association, stated that she represents 52,000 physicians and medical students. She highlighted TMA's behavioral health task force and that physicians generally see an intersection of mental health and physical health, making the Commission's work vitally important.

Leslie Fitzpatrick, attorney and Court Coordinator from Williamson County, shared personal and professional anecdotes illustrating the need for the JCMH and expressed a desire for more law enforcement and jailer training with the ultimate goal of more diversion.

Angie Carroll, student at Texas Tech University, shared personal anecdotes related to her time in the Texas foster care system and asked that the Commission focus on those still within the foster care system, as well as young adults who have aged out of care. She highlighted the work Williamson County is doing with trauma informed care and asked that the Commission focus on that as well.

Janis Reinken, attorney, shared both personal experiences and professional experiences as an attorney with various state agencies and with the legislature. She hopes the Commission will focus on the mental health of children, either via early intervention or counseling through schools, or both.

David Aronofsky, retired University of Montana law professor, discussed his extensive experience teaching legislative law and in the overhaul of Montana's youth court and drug courts. He highlighted the successes he has seen related to diversion and with the creation of mental health courts. His goals for the Commission are that it will focus on statutes that can be applied to Texas's counties uniformly, look at existing programs that work, and focus on the interplay between mental health and special education.

Lee Johnson, Deputy Director of the Texas Council of Community Centers, extended the support of the Council and stated that he hopes the Commission will focus on mental health and substance abuse disorders.

Justice Brown encouraged members to reach out to Kristi if anyone is interested in making a longer presentation at a future meeting. He then introduced Justice Boyce.

Justice Boyce shared that the Judicial Council Committee continues to meet as the JCMH gets up and running. He then highlighted the main legislative initiatives the Committee discussed and that were enacted as part of the most recent legislative session: screening procedures, PR bonds, and cashless bonds per Criminal Procedure Article 17.032 for persons with mental illness.

Other recommendations included adequate and continuing funding to provide the opportunity for these ideas to come to fruition. He also listed three take-aways: a sense of urgency; relying on the experiences and expertise of the Commission members and utilizing those resources effectively; and that the Judicial Council will continue to meet and make recommendations, creating a convergence of responsibilities as we go along.

He also highlighted ongoing issues: addressing feedback, especially regarding screening under Article 16.22; new proposals regarding transfer of health-related information under code of Criminal Procedure Article IV, 42.09 Sec. 8; and Government Code Sec. 54.003 B; ongoing training; and procedures for court ordered involuntary mental health treatment under Chapter 574 of the Health and Safety Code.

Finally, Justice Boyce directed everyone to tabs six and seven of the handouts and highlighted a written report covering the information he discussed. He also highlighted the work the OCA has done and highlighted the now-available lists of mental health and IDD resources; he hopes this serves as the beginning of an effort to make the information more widely available.

Justice Brown introduced Sonja Gaines, Health and Human Services Associate Commissioner.

Deputy Executive Commissioner Sonja Gaines discussed the work of HHSC's Behavioral Health Coordinating Council. She highlighted several outcomes: a comprehensive inventory of services across all participating state agencies; a comprehensive coordinated expenditure document with the goal of ensuring capitalization of existing resources; and the goals outlined in their 2016 strategic plan. The plan outlined enhancement of coordination of among state agencies, service delivery, prevention, financial alignment, and data collaboration. She pointed everyone to mentalhealthtx.org for more information.

She also discussed the results of the Council's most recent survey, which she stated represented rural and urban counties and ultimately aided in identifying several gaps in delivery of services and resources. Commissioner Gaines also discussed several of the Council's successes.

Judge Hervey expressed interest in the Commission researching whether packets that represented rights of family members, such as those that used to be handed out in public schools, could be revisited.

Ms. Julie Wayman stated that she would follow up on Judge Hervey's request. She also mentioned that the JCMH is also collaborating with the Behavioral Health Coordinating Council to build up resources and services for schools to support all students, including prevention.

Both Sonja Gaines and Julie Wayman pointed to a variety of ongoing initiatives and processes geared toward providing more resources to schools, especially regarding training.

Adrienne Kennedy advised that NAMI has a large portfolio in the direction of informed care for students, parents and teachers, including pamphlets, videos, and other presentations.

Sonja Gaines provided an overview of several services and supports currently available, including training focused on understanding individuals that have IDD and mental health. She also acknowledged Judge Hervey's contributions to HHSC and provided an overview of the Joint Committee on Access and Forensic Services. She also provided an overview of various legislative bills, including: SB 1849, SB 1326, SB 1326, and HB 13. She then highlighted HHSC's programs devoted to outpatient competency restoration and jail-based competency restoration.

Beth Mitchell suggested that Sonja discuss programs or services that perhaps are not working.

Sonja Gaines emphasized that not all problems have been addressed or solved, but suggested that the Commission acknowledge existing, successful programs and avoid duplication. She also highlighted the legislature's contributions to "moving the needle" toward recognition of the unique problems in the mental health arena.

Dr. Andrew Keller stated that he would like the Commission to focus on HB 10 as it relates to mental health coverage in addition to health coverage.

Sonja Gaines advised that HHSC is getting started on the development of the coinciding clearing house of information related to HB 10.

Judge Hervey, Sonja Gaines, and Beth Lawson discussed a concern related to how best to communicate to judges what resources are available at the local level.

Beth Lawson pointed out that this concern highlights the nexus of the problem; there isn't a list for a variety of reasons, from the nature of bed availability to the lack of resources overall in some areas. She suggested establishing strong relationships and lines of communication between local service providers and judges. She also noted that building more facilities is not necessarily the answer; rather managing things more efficiently may be the solution.

Mike Maples agreed and added that local mental health representatives could serve an important role in communicating with judges regarding available resources. He also suggested evaluating current successful models as examples.

Ernie Glenn added that San Antonio hosts a local medical directors' round table once a month to discuss such issues. He suggested utilizing that as a model moving forward.

Denise Oncken added that the Commission needs to address appropriate step-down facilities as well.

Judge Spencer added that the Commission should also focus on school counseling as a resource for not only academics, but to identify children with problems.

Mike Maples reiterated that the Commission must discuss better linkages between public resources and private resources. He also provided an overview of existing hospitals and challenges, specifically regarding recruiting and maintaining a workforce. He also noted that state facilities are seeing longer lengths of stay due to the availability of more local resources. Additionally, he noted issues regarding forensic commitments and long wait times for placing persons with intellectual disabilities and mental health. These issues are compounded by the fact that forensic commitments require additional staff, creating a backlog for less serious offenders.

Dr. Bill Schnapp and Mike Maples noted that these issues are compounded by the fact that forensic commitments require additional staff, creating a backlog for less serious offenders.

Mike Maples also noted that progress has been made related to the use of beds in misdemeanors, but he believes there is more to be done, especially regarding competency restoration. He also noted that work should be done to address how best to assign beds, especially regarding issues such as Alzheimer's, dementia, and traumatic brain injuries.

He recognized the progress the legislature has made and discussed current hospital remodels and plans to build.

Dr. Bill Schnapp asked if HHSC has a specific, focused plan on early intervention.

Sonja Gaines answered that prevention is key, and that there are programs currently in place, specifically to identify early psychosis, that are seeing success. She added that she'd like to highlight that success at a future meeting.

Beth Mitchell asked Mike Maples about efforts toward addressing the issue of beds that could be used but are offline because of lack of staffing.

Mike Maples shared that one of his top priorities is to develop a recruitment retention plan. He mentioned that his office has implemented several arrangements with medical schools and contractor medicine providers. He also mentioned that his office will be launching a new campaign on its website and is creating recruitment videos as well. He also mentioned that the new, modern

facilities should aid this effort. He stated that he believes future collaboration with universities with a focus on the availability of a forensic concentration may also provide recruiting incentives.

Professor Brian Shannon provided his observations about the issues Mike Maples outlined.

Mike Maples stated that judicial education and awareness regarding options that help support people transition out of hospitals will be helpful. He also pointed to a focus on creating a continuum of options such as supported housing as potential resources.

Sonja Gaines mentioned that HHSC does have a number of state-funded crisis residential programs available that can sometimes be used as a step-down post-hospital.

Mike Maples suggested that perhaps the Commission could provide presentations from some of these collaboratives that have taken state, local, or private funding, and weave together more uniform resources.

Denise Oncken added that technology should be utilized when considering resource options and that the legislature may assist in this effort.

Mike Maples agreed, noting that a lot of his agency's court work is done via tele-video.

Justice Brown introduced Judge Specia.

Judge Specia provided an overview of his experience and described his role as the first Jurist in Residence for the JCMH. He stated that he'd like to see new ideas and new ways to approach problems, and emphasized communication, collaboration, and the use of round tables to address various issues.

Sonja Gaines added that it is important to get information back from the judges, especially regarding successful innovation at the local level.

Judge Specia agreed.

Justice Brown thanked everyone in attendance and noted that the next Commission meeting will take place on August 10, 2018, at the same location. He also noted that the following meeting will take place on January 25, 2019, also at the same location. He noted that a webcast should be up and live for the next meeting and asked that any questions or input be directed to Kristi Taylor.

Meeting adjourned.

**JUDICIAL COMMISSION ON MENTAL HEALTH
MINUTES OF MEETING
August 10, 2018
9:30 a.m. – 3:00 p.m.
State Bar of Texas – Texas Law Center
Austin, Texas**

Commissioners	Attended	Did Not Attend
Hon. Jeff Brown, Co-Chair, Supreme Court of Texas	✓	
Hon. Barbara Hervey, Co-Chair, Texas Court of Criminal Appeals	✓	
Hon. Bill Boyce, Vice Chair, Justice, Fourteenth Court of Appeals	✓	
Camille Cain, Executive Director, Texas Juvenile Justice Department		✓
Hon. Brent Carr, Judge, Tarrant County, Criminal Court No. 9	✓	
Terry Crocker, Chief Executive Officer, Tropical Texas Behavioral Health	✓	
Gerald Davis, President and CEO, Goodwill Industries of Central Texas	✓	
Hon. Francisco Dominguez, Judge, El Paso County, 205th Judicial District Court	✓	
Hon. Camile DuBose, Judge, Medina County, 38th Judicial District	✓	
Dr. Tony Fabelo, Senior Fellow for Justice Policy, Meadows Mental Health Policy Institute	✓	
Sonja Gaines, Deputy Executive Commissioner for Intellectual and Developmental Disabilities	✓	
Hon. Ernie Glenn, Drug Court Magistrate, Bexar County	✓	
Hon. Sid Harle, District Court Judge, Bexar County, 226th Criminal District Court		✓
Courtney Hjaltman, Policy Advisor, Office of the Governor	✓	
Hon. Joan Huffman, Senator, District 17, Texas Senate (by proxy Wroe Jackson)	✓	
Dr. Andrew Keller, President and CEO, Meadows Mental Health Policy Institute	✓	
Adrienne Kennedy, President, National Alliance on Mental Illness	✓	
Hon. M. Sue Kurita, Judge, El Paso County Court at Law No. 6	✓	
Beth Lawson, Chief Executive Officer, StarCare Specialty Health System	✓	
Major Mike Lee, Mental Health & Jail Diversion Bureau, Harris County Sheriff's Office	✓	
Mike Maples, Deputy Executive Commissioner for Health and Specialty Care System	✓	
Dr. Octavio Martinez, Executive Director, Hogg Foundation for Mental Health		✓
Hon. Stacey Mathews, Judge, Williamson County, 277th District Court	✓	
Chief James McLaughlin, Executive Director, Texas Police Chiefs Association	✓	
Beth Mitchell, Supervising Attorney, Disability Rights Texas	✓	
Tom Mitchell, Director of Jail Diversion Services, The Harris Center for Mental Health/IDD	✓	
Hon. Joe Moody, Representative, District 78, Texas House of Representatives		✓
Hon. Roxanne Nelson, Justice of the Peace, Burnet County Precinct 1	✓	
Hon. Robert Newsom, Judge, Hopkins County	✓	
Denise Oncken, Bureau Chief, Harris County District Attorney, Mental Health Bureau	✓	
Hon. Harriet O'Neill, Justice (ret.), Harriet O'Neill Law Office	✓	
Dr. William Schnapp, Mental Health Policy Advisor, Harris County	✓	
Prof. Brian Shannon, Paul Whitfield Horn Professor, Texas Tech University School of Law		✓
Reginald Smith, Policy Analyst, Texas Criminal Justice Coalition	✓	
Hon. Polly Jackson Spencer, Judge (ret.), Bexar County Probate Court	✓	
Hon. Cynthia Wheless, Judge, Collin County, 417th Judicial District Court	✓	

Collaborative Council

Mark Atkinson
Daphne Previti Austin
Lauren Bledsoe
Virginia Brown
Geoff Burkhart
Judge Nelda Cacciotti
Angel Carroll
Justice Rex Davis
Alyse Ferguson
Lesli Fitzpatrick
Gilbert Gonzales
Greg Hansch
Dr. Courtney Harvey
Elizabeth Henneke
Colleen Horton
Angelita Hunter
Trina K. Ita
Judge Dave Jahn
Lee Johnson
Windy Johnson
Louise Joy
Evelyn Keyes
Mike Lozito
Joanna Mendez
Allen Place
Shea Plalce
Terry Qualls
Janis Reinken
Scott Soland
Judge Charles Stephens
Gloria Terry
Rick Thompson (by proxy Aaron Flores)
Ryan Tullus Turner (by proxy Regan Metteauer)
Keona Ugwuh
Steve Wohleb
Julie Wayman
Brandon Wood
April Zamora

Guests

Trace Burks-Bell
Aaron Flores (for Rick Thompson)
Kevin Garrett

Jennings Greer
Aaryce Hayes
Wroe Jackson (for Senator Joan Huffman)
Nelson Jarrin
Sydney Marvin
Regan Metteauer (for Judge Ryan Turner)
Jorge Ramirez
Phil Ritter
Elyssa Schroeder
Jonas Schwartz
Jaynna Sims
Terra Tucker
William Turner

Attending JCMH Staff

Kristi Taylor, Executive Director
Julie Liddell, Staff Attorney
Monica Mahoney, Project Manager

Attending OCA Staff

Mena Ramon

Attending Court Staff

Nina Hess Hsu

Attending Children's Commission Staff

Tiffany Edwards
Jocelyn Fowler
Patrick Passmore
Andrea Vicencio

Welcome and Announcements

Justice Barbara Hervey opened the meeting and welcomed all in attendance. She provided an overview of the agenda and introduced new additions to the Collaborative Council. She also provided an overview of recent training sessions, highlighting the work of the JP Training Center, the Municipal Court Training Center, and TAC.

Texas Judicial Council Update

Justice Bill Boyce announced that the Texas Judicial Council Committee continues to meet and focuses on guardianship, mental health, and intellectual and developmental disabilities. He shared that the committee will meet again on September 14, 2018, with the goal of establishing additional specific recommendations to the legislature in anticipation of the upcoming session. Justice Boyce then provided an overview of the Council's various recommendations and pointed everyone to the OCA website for specific, written reports and summaries of each recommendation.

He closed with stating the need to find appropriate balance between providing treatment and recognizing the constitutional rights of everyone at stake.

Presentation from the Meadows Mental Health Policy Institute

Dr. Andrew Keller stated that the Institute has been focusing on ideas related to the process for competency restoration under Article 46B. He emphasized that stakeholder input, along with input from the Commission, could provide considerable guidance on the process.

He then provided an overview of the evolution of the competency restoration process and suggested that the current system should be able to offer people options to get their psychiatric symptoms stabilized rather than have them wait until they get to the competency restoration phase to have that happen. He provided an overview of statistics that highlighted the disproportionality of patients requiring both maximum security and non-maximum security and beds available, versus the relative balance between non-jail related psychiatric emergencies and beds available. He suggested creating a framework where people can receive treatment rather than wait to receive treatment solely for the purposes of competency restoration. He then pointed to Harris County and StarCare of Lubbock as examples where systems are currently in place to address this issue.

Dr. William Schnapp added that the Harris County Jail has had psychiatric in-patient and out-patient services for the general population at the jail for years. He added that people waiting for competence restoration services in state hospitals do wait for some time, but every 30 days, they're reevaluated to see if they still fit the criteria for meeting competency restoration. He noted that last year, 27 people were diverted.

Ms. Beth Lawson, CEO of StarCare Specialty Health System of Lubbock, shared with the Commission that her organization has both a jail diversion program and a hospital diversion program in place that work well to provide psychiatric stabilization. She noted that such psychiatric stabilization could impact the system by addressing the lag time between stabilization and competency restoration, which could in turn free beds for incoming patients, and provide a more economical and efficient approach.

Dr. Andrew Keller thanked Ms. Lawson for her comments and reiterated that he proposes the Commission look at two things: the need for the educational component of competency restoration, and the need for symptom stabilization and whether there are ways to allow jurisdictions more flexibility to separate the two to get people treatment sooner.

Major Mike Lee of Harris County added anecdotal support for providing more case-by-case leeway when evaluating instances such as described by both Dr. Keller and Ms. Lawson.

Denise Oncken of the Harris County District Attorney's Office to Major Lee's comments by stating that there are indeed many instances where maximum security accommodations are no longer necessary once a patient has been stabilized. However, the process, as it stands, does not allow for case-by-case review. She suggested incorporating tele-video in to the process, ensuring that decisions could be made locally.

Beth Mitchell agreed with Ms. Oncken's comments and added that the Commission should also look into whether or not individuals with intellectual disabilities meet maximum-security qualifications at all. She added that emergency detentions also need considerable consideration, adding that many people who are placed in emergency detention incur assault charges at various points in the intake process, further complicating the initial issue, which is generally access to mental health care amid a psychiatric crisis.

Adrienne Kennedy added that the issue Ms. Mitchell pointed to is also a humanitarian issue; the longer the brain is under the attack of mental illness symptoms, the more entrenched and transient they become.

April Zamora with the Texas Correctional Office on Offenders with Medical or Mental Impairments added that, from the criminal justice aspect, criminogenic risk should be kept in mind when evaluating competency restoration. Further, she added that emphasis should be placed on outpatient competency restoration as well.

Judge Polly Spencer added that providing more flexibility to judges and staff via legislative changes will also require education. She also added that these changes would in turn result in improved quality of life and lessen the load on the criminal justice system.

Steve Wohleb, of the Texas Hospital Association, expressed that THA is very interested in being part of the solution to the problems at hand. He also shared that he has received extensive feedback indicating that under an emergency detention or in a psychiatric crisis, the process of finding an inpatient psychiatric bed for that person really is a difficult and oftentimes very lengthy process. He emphasized that, as the Commission moves forward, that it takes a good, close, and accurate look at the available resources and how those resources are currently being utilized.

Lesli Fitzpatrick, Specialty Coordinator for Williamson County and criminal defense attorney, expressed her concerns related to inmates with drug abuse issues and consequent mental health issues who encounter a lack of options when they do not fit the criteria to be committed to mental health facilities, and are instead left in jail.

Judge Cynthia Wheless of Collin County added that the Commission needs to discuss the standards between the civil commitment process and the criminal justice commitment process. She added that there is a large disparity, making it difficult for providers.

The Commission discussed several potential solutions and obstacles related to this issue.

Dr. Andrew Keller introduced Justice Brown.

Justice Brown provided the Commission with updates on October's Summit. He then introduced HHSC Associate Commissioner Trina Ita.

Health and Human Services Commission Report

Trina Ita provided an update regarding the various programs implemented at HHSC. She stated that HHSC has a focus on prevention, intervention, and diversion. Current programs are targeted on community collaborative approaches to implementing services, increasing access to community mental health services, eliminating waiting lists for community mental health services for adults and children, increasing capacity, avoiding future wait lists, addressing population growth in LMHA service areas, and increasing equity and funding amongst local mental health authorities. Additional programs also work toward supporting community programs providing mental healthcare services and treatment to individuals with a mental illness and coordinating mental healthcare services for individuals with a mental illness with other transition support services, and reducing recidivism rates, arrests, and incarceration among individuals with mental illness, and reducing the wait time for forensic commitments.

Mike Maples, HHSC Deputy Executive Commissioner for Health and Specialty Care System, provided an overview of issues related to capacity, changes in client population and in forensic commitments.

Regarding capacity, Mr. Maples highlighted issues regarding current offline facilities, due in part to staffing and recruitment challenges, and deteriorating conditions at some locations. He noted, however, that more local beds are available, and are especially able to address civil commitment needs. He then highlighted a shift in forensic commitments and suggested that this could be due in part to an increase in access to care. He noted that a lot of work has been done toward working with the judiciary and law enforcement regarding mental health and mental illness issues. He also noted an uptick in “guilty by reason of insanity” rulings and how both the uptick in forensic commitments and in insanity rulings have resulted in longer lengths of stay. Essentially, as local needs are being met, specifically civil commitments, state hospitals are receiving more psychiatrically complex clients who require long term care, and in turn, cause longer waiting lists.

He noted that recent legislation has funded expansion and the availability of additional beds. He advised, however, that the evaluation, transition, and release processes, including misdemeanor offenses, must be examined and reevaluated from a clinical perspective, judicial perspective, and local perspective to avoid perpetually reaching capacity and creating waiting lists.

Jurist in Residence Report

Judge Specia presented the Commission’s strategic plan and invited feedback. He advised that a Jurist in Residence letter is forthcoming.

Executive Director Report

Kristi Taylor thanked everyone in attendance for their participation and responses to a Commission survey. She encouraged everyone to register for the summit as soon as possible and also mentioned that the Commission is interested in securing broad representation across the state to comprise the Commission’s regional teams. She also provided updates related to Commission funding and potential projects, including video-conferencing, and the creation of a traveling court. Ms. Taylor presented the Commission’s new logo and provided an overview of the Commission’s Collaborative Council. She noted that two committees have been developed. She then introduced Judge Dubose.

Judge Dubose recognized everyone serving on the Commission’s committees and thanked them for their work. She stated that the goal is to create a practical, user-friendly guide for judges at all levels and in all jurisdictions of all sizes for navigating mental health issues in the court system. She noted it will cover criminal, civil, and juvenile justice systems and will include statutory procedures, case law, and best practices. She welcomed any feedback and stated she hoped to have materials in place for October’s summit.

Judge Carr then shared that the Summit Curriculum Committee has held two conference calls thus far. He also shared that the upcoming conference will focus on the sequential intercept model.

Judge Hervey advised that the Commission will notify the Judicial Council that it is interested in continuing to review Dr. Andrew Keller’s proposals. She also advised that the Executive Committee will continue to review such proposals. She then introduced Judge Brent Carr, who led a Beyond the Bench exercise for the remainder of the meeting.

Insert Tab 3



**Judicial Commission on Mental Health
 January 2019 Meeting Financial Report**

FY2019 BUDGET

FY2019 State General Revenue \$ 1,000,000
FY2019 Available Funds \$ 1,000,000

FY2019 OBLIGATIONS

	<u>Budget</u>	<u>Expenses To-date</u>	<u>Outstanding Obligations</u>
Indirect	\$ 488,579	\$ (90,159)	\$ 398,420
Projects	\$ 349,000	\$ (22,248)	\$ 326,752
Scholarships	\$ 12,500	\$ -	\$ 12,500
	<u>\$ 850,079</u>	<u>\$ (112,407)</u>	<u>\$ 737,672</u>

CURRENT FINANCIAL STATUS

State General Revenue Balance January 2019 \$ 887,593
 FY2019 Outstanding Obligations \$ 737,672
FY2019 Projected End Balance \$ 149,921

Insert Tab 4



Judicial Commission on Mental Health

Collaborate. Educate. Lead.

Mission:

The mission of the Judicial Commission on Mental Health is to engage and empower court systems through collaboration, education, and leadership, thereby improving the lives of individuals with mental health needs, substance use disorders, or intellectual and developmental disabilities (IDD).

Collaborate

Collaboration among court systems—including the legal community, mental health professionals, law enforcement, state agencies, and court participants—is essential for achieving the best possible outcomes for Texans. To facilitate such collaboration, the Commission will:

- collaborate with stakeholders to collect and analyze data, practices, law, and policy with the goal of improving court functioning for people with mental health needs, substance use disorders, or IDD;
- identify and assess current and future needs of the judiciary to improve courts' ability to serve people with mental health needs, substance use disorders, or IDD;
- improve collaboration and communication among courts, agencies, and community partners;
- encourage sharing of appropriate information to enhance judicial efficiency;
- explore potential partnerships to promote early awareness and education about mental health, substance use disorders, or IDD in the court system;
- examine the prevalence and impact of racial disparities for people with mental health needs, substance use disorders, and IDD in the court system;
- assess data collection, reporting, and sharing for projects receiving Commission support;
- identify funding and resource options available to facilitate the Commission's efforts to serve the state; and
- endeavor to increase resources and funding and maximize the effective and efficient use of available judicial system resources.

Educate

Education—including specialized training, resources, and tools—for judges, attorneys, and court personnel is essential to fair and efficient resolution of cases involving individuals with mental health needs, substance use disorders, or IDD. To further the goal of education, the Commission will:

Judicial Commission on Mental Health

Collaborate. Educate. Lead.

- develop high-quality, multi-disciplinary education in coordination with state and national training experts and raise awareness of best practices and areas requiring improvement;
- create and provide tools and resources on key concepts and court procedures related to mental health, substance use, or IDD;
- promote best practices that are data-driven, evidence-based, and outcome-focused; and
- educate the judiciary and stakeholders on the importance of collecting and sharing data.

Lead

Judicial leadership is essential to serving individuals with mental health needs, substance use disorders, and IDD in Texas courts. To promote leadership in the judiciary, the Commission will:

- promote innovative projects, as well as policy and procedural changes that improve court functioning;
- serve as a resource in the development of policy, legislation, and practice recommendations, including policy recommendations for consideration by the Texas Judicial Council;
- explore technological solutions to assist the courts, including the statewide implementation of a computerized case-management system and expanded data-sharing between stakeholders.
- promote improved court performance and accountability;
- assist judges in leading local and regional initiatives to improve mental health, substance use disorders, and IDD service delivery and capacity;
- promote appropriate consideration of mental health, substance use disorders, and IDD needs expressed by children, youth, and families in the judicial process;
- elevate awareness of mental health, substance use, and IDD as an important area of expertise within the legal and judicial community;
- strive to serve as both a statewide and national leader in mental health, substance use, and IDD law and practice;
- oversee the administration of funds appropriated and granted to the Commission; and
- provide progress reports to the Supreme Court of Texas and the Texas Court of Criminal Appeals.

Insert Tab 5

Judicial Commission on Mental Health

Emergency Detention Round Table Discussion

Tuesday, December 4th, 2018

Alyse Ferguson	Collin County Mental Health Managed Counsel
Dr. Courtney Harvey	HHSC
Judge Guy Herman	Travis County
Judge Barbara Hervey	Texas Court of Criminal Appeals
Judge Dave Jahn	Denton County
Dr. Floyd Jennings	Harris County Public Defender's Office
Lee Johnson	Texas Council of Community Centers
Louise Joy	Joy & Young, LLP
Judge Oscar Kazen	Bexar County
Judge Lynn Kelly	Tarrant County
Chris Lopez	HHSC
Beth Mitchell	Disability Rights Texas
Sian Schilhab	Texas Court of Criminal Appeals
Professor Brian Shannon	Texas Tech School of Law
Officer Scott Soland	Fort Bend County
Judge Charles Stephens	Comal County
Kristi Taylor	JCMH
Steve Wohleb	Texas Hospital Association

Introduction

Emergency detention (ED) is the legal procedure by which a person experiencing a severe mental health crisis may be detained for a preliminary examination and crisis stabilization, if appropriate. Law enforcement officers have significant discretion to make a warrantless apprehension for an emergency detention if the statutory criteria are met rather than choosing to make an arrest. Emergency detention may be necessary and appropriate when a person apparently experiencing a mental health crisis will not submit to voluntary services. The person must be placed in the least restrictive, most appropriate setting, while safeguarding the person's legal rights to a subsequent judicial determination of their need for involuntary mental health services. See [Tex. Health & Safety Code §§ 571.004, 576.021\(a\)\(1\)](#).

Unless a written order for protective custody (OPC) is obtained under [Tex. Health & Safety Code § 574.022](#), a person accepted for a preliminary examination may be detained in custody for no more than 48 hours *after the time the person is presented to the facility*. That includes any time the person spends waiting in the facility for medical care before the person receives the preliminary examination. [Tex. Health & Safety Code § 573.021\(b\)](#). If the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 4 p.m. on the first succeeding business day. If the 48-hour period ends at a different time, the person may be detained only until 4 p.m. on the day the 48-hour period ends. [Tex. Health & Safety Code § 573.021\(b\)](#).

Texas Health and Safety Code § 573.021 Preliminary Examination

(a) A facility shall temporarily accept a person for whom an application for detention is filed or for whom a peace officer or emergency medical services personnel of an emergency medical services provider transporting the person in accordance with a memorandum of understanding executed under [Section 573.005](#) files a notification of detention completed by the peace officer under [Section 573.002\(a\)](#).

(b) A person accepted for a preliminary examination may be detained in custody for not longer than 48 hours after the time the person is presented to the facility unless a written order for protective custody is obtained. The 48-hour period allowed by this section includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. If the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 4 p.m. on the first succeeding business day. If the 48-hour period ends at a different time, the person may be detained only until 4 p.m. on the day the 48-hour period ends. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each day, extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

(c) A physician shall examine the person as soon as possible within 12 hours after the time the person is apprehended by the peace officer or transported for emergency detention by the person's guardian.

(d) A facility must comply with this section only to the extent that the commissioner determines that a facility has sufficient resources to perform the necessary services under this section.

(e) A person may not be detained in a private mental health facility without the consent of the facility administrator.

Issues for Discussion

1. If the 48-hour emergency detention period expires and an OPC has not been issued due to a failure in the process, does Texas Health and Safety Code Chapter 573 allow another emergency detention to be initiated if the criteria set forth in section 573.022 continue to be met?
2. What is the appropriate action when an OPC has not been issued in the 48 hours and there is still substantial risk of serious harm to self or others?

Conclusions

1. No, participants agreed that the Texas Health and Safety Code does not expressly permit consecutive emergency detentions. Instead, the relevant statutory provisions are structured to require the county or district attorney, as applicable, to seek an OPC under Texas Health & Safety Code §§ 574.021-.022 if further restraint of the individual is appropriate. The policy concern with consecutive emergency detentions is that an applicant or judge could effectively circumvent commitment procedures—and thus due process protections—by seeking or issuing serial emergency-detention orders under Texas Health and Safety Code, Chapter 573. Participants also reached consensus that the legislative intent of the statute was to allow a consecutive emergency detention if there were a new nexus of events. For example, if a patient were being released from an emergency detention and then made a new claim that he intended to harm himself or others, a new emergency detention could be initiated.

2. There was much discussion about the appropriate action to take when an OPC has not been issued in the 48 hours and a substantial risk of serious harm to self or others remains. Participants agreed that the local bright ideas enumerated below can help prevent a situation in which a person who needs further detention is released due to a failure in the process to timely secure the OPC. Many participants agreed that if the 48-hour period lapses and there is no OPC, then the only option is to release the patient and ask the LMHA to make a community safety plan and to follow up with the patient while an OPC is being pursued. Some participants expressed a strong concern that they felt it was irresponsible to the patient and to the community to release a person who is at substantial risk to cause serious harm to self or others, and that because the practice of consecutive emergency detentions is not expressly prohibited, they would still consider it as an option of last resort to be used sparingly.

Identified Barriers and Causes of Delays

- Courts sometimes require a “bed letter” that identifies which facility has an available bed before they will accept an application for an order of protective custody.
- Courts may have local rules requiring all filings to occur before 2:30 p.m.
- LE officers are sometimes hesitant to execute EDs of juveniles because involuntary commitment is not possible.
- MH facilities ask LE officers to execute EDs after a voluntary admittance, but LE officers are sometimes reluctant.
- Counties use different processes for EDs.
 - In some counties, EDs go from the hospital to the District Attorney/County Attorney.
 - In some counties, the EDs go from the hospital to the County Clerk.
- Counties use different forms which leads to problems in the completion of the application for OPC.
- When patients under ED are transferred, sometimes the second hospital requests a second ED so it will reflect the name of the second hospital.
- The lack of appropriate inpatient psychiatric beds is a problem. The Legislature appropriated funds for private beds; however, not every private bed is the same. Local business practices affect how well this works.
- Some facilities are hesitant to file for OPC because they erroneously believe the doctors will spend hours in court involved in the probable cause hearing. (Participants noted that Texas Health & Safety Code §§ 574.022(c) and 574.025(f) permit the judge or magistrate to make a determination to issue or order continued detention under an OPC based solely on a review of the application for court-ordered mental health services and a written certificate of medical examination for mental illness under Texas Health & Safety Code section 574.011.)
- Private hospitals sometimes will not accept the LMHA designation as an appropriate facility for EDs.
- Hospitals do not want contracts for state beds because rates are low.
- The OPC application may not be completed if there is no bed available.
- Extended observation unit may not have the license to hold the person for longer than 48 hours.
- Hospitals may be afraid of indictment for holding patients too long.
- Facilities sometimes are under the misapprehension that juveniles age 16/17 cannot provide their own consent for psychoactive medication.

Bright Ideas

- Create local collaborations with high level stakeholders including judges, facility administrators, LMHAs, district and county attorneys, defense attorneys, and law enforcement. Judicially-led collaborations have the most success. Meet monthly to:
 - improve communication and collaboration to meet statutory deadlines;
 - develop training or offer existing training; and
 - evaluate judicial resources.
- Develop and distribute statewide forms. Until those are developed, see Travis County forms from Judge Guy Herman attached to this report.
- Designate a magistrate to ensure access to the probate courts and give the hospitals notice of such.
- Develop procedures and consider signing MOUs regarding transferring patients on ED. One county uses an Application to Transfer to be heard by the justices of the peace. Other counties use automatic transfers and have set procedures that the first hospital keeps the original copy of the ED and sends a copy to the second facility who will file for the OPC.
- Ask LMHAs to send a letter to hospitals designating them as appropriate facilities for EDs.
- Develop multidisciplinary education on issues such as the correct completion of the applications for OPC, who needs to be present at probable cause hearings, and issuing OPCs to a facility even if there is not yet an identified available bed.
- Create a Statewide CIT Coordinator position for better education and coordination with law enforcement.
- Mandate multidisciplinary teams in counties or clusters of counties using the model of the Child Fatality Review Teams.

Suggested language for the JCMH Bench Book

Subsequent applications for emergency detention

There are statutory limits on the allowable period for an emergency detention. Texas Health & Safety Code § 573.021(b) provides that “[a] person accepted for a preliminary examination may be detained in custody for not longer than 48 hours after the time the person is presented to the facility unless a written order for protective custody is obtained.” (Note, however, that this subsection extends the 48-hour period until 4:00 p.m. on the first succeeding business day if “the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4:00 p.m. on the first succeeding business day.”)

The statute contemplates that, if after a preliminary examination, additional involuntary inpatient mental health services are required, the state must take steps and document to seek and obtain an order for protective custody during the emergency detention period. The legislative intent of 573.021 bolsters the interpretation that a second consecutive emergency detention order arising out of the same nexus of events would not be authorized. In contrast, however, a subsequent emergency detention order following the expiration of the statutory period would be permissible if supported by a **new or different nexus of events** that meet the statutory criteria. Similarly, sequential warrants should not be issued based on a single nexus of events.

Insert Tab 6



What I want the commission to know about people with intellectual disabilities.

Intellectual disability is a developmental disability measured in terms of IQ and functionality – in other words, how well the individual can carry out activities of daily living. Contrary to some historic paradigms, people with ID do experience co-occurring mental illness – the most frequent being anxiety and depression – and they experience these at higher rates than people without disabilities. They also can experience schizophrenia, bipolar disorder, PTSD, and every other mental health condition. Research indicates that approximately 34% of individuals with disabilities experience a mental health condition, compared to approximately 20% in the general population.¹

Individuals with ID also experience trauma at much higher rates than individuals without disabilities. They experience physical, sexual, and emotional abuse, isolation, exploitation, bullying, institutionalization, and more. And, contrary to the beliefs of some, they definitely experience the impact of the trauma and often do not have the protective factors to easily heal from trauma. On an NPR broadcast in 2018, it was revealed that people with disabilities are sexually assaulted at rates more than seven times the rate for adults without disabilities.²

Often, individuals with disabilities do not receive appropriate mental health treatment or trauma-informed care. Instead, they receive behavior management. Instead of working on a recovery plan, they are expected to abide by a behavior management plan that doesn't address the core issues so can do little to impact long term recovery.

In the criminal justice realm, people with intellectual disabilities are at risk of being exploited, falsely accused, not believed, ignored, and invalidated. At the intersection with the criminal justice system, individuals with ID can be the victims, perpetrators, or witnesses of crimes. The evidence is strong that people with intellectual disabilities have a 4% to 10% higher risk of being the victims of crimes than those without disabilities.³ According to the ARC of the US:⁴

- Crimes against people with disabilities are often reported as abuse or neglect, which understates the criminal aspects. Often, crimes against people with ID are simply not reported.
- People with ID may not report crimes because of their dependence on their abuser for their basic needs.
- When victims do report crimes, policy and court officials may not take the allegations seriously, or worse, may not believe the victim.
- People with ID often don't have access to supports they need to report crimes, and are often not considered credible witnesses.

What is Intellectual Disability?

Intellectual disability¹ involves problems with general mental abilities that affect functioning in two areas:

- intellectual functioning (such as learning, problem solving, judgement)
- adaptive functioning (activities of daily life, such as communication and independent living)

Intellectual disability affects about one percent of the population and, of those, about 85 percent have mild intellectual disability. Males are more likely than females to be diagnosed with intellectual disability.

American Psychiatric Association,
<https://www.psychiatry.org/patients-families/intellectual-disability/what-is->

Simply stated, individuals with ID are often undervalued. When accused of a crime, people with ID are often not provided the support they need to understand the charges against them or the court processes. Attorneys representing individuals with ID often lack knowledge of intellectual disabilities resulting in ineffective and inadequate representation and assistance.

As alleged perpetrators, a 5-year study found that individuals with ID were:⁵

- More likely to be arrested;
- More likely to be persuaded to confess;
- More likely to be refused bail, probation, or parole;
- More likely to serve longer sentences;
- More likely to face misperceptions, negative attitudes, and prejudice from people in the judicial system; and
- More often exploited and abused when incarcerated.

A 2011 article in the *Intellectual and Developmental Disabilities Journal* details 75 false confessions for serious crimes made by people with intellectual disabilities. Of the 75, 65 have since been exonerated with 29 of those exonerations being proven by DNA testing.⁶ Due to the growing awareness of the ease of obtaining false confessions from individuals with intellectual disabilities, some lawyers and judges are becoming more aware of their vulnerability and exposure in the judicial system. Some of the reasons for false confessions include:

1. Desire to please others - this is often how they have learned to survive in the world
2. Trust - they believe that authority figures are there to protect them
3. Fear - they don't understand what is happening and want to go home.

Undeniably, there are barriers that exist that create challenges, including but not limited to:⁷

- Limited options for “placement” when an individual with ID is accused of a crime, e.g., community crisis respite centers for individuals with ID;
- Limited data available to assess actual need;
- Limited training for law enforcement, criminal justice, and judicial staff;
- Vague standards on competency; judges must make determinations with little training and often limited information related to ID;
- No single agency with responsibility for coordination of services;
- No social movement advocating for the rights of individuals with ID involved in the judicial systems.

RECOMMENDATIONS

There is much that can be done to improve mental health support and services for individuals with ID as well as to improve the judicial and criminal justice systems to ensure equity and civil rights protections.

- Create alternatives to jails for individuals with ID and co-occurring mental health conditions such as crisis respite centers; these resources should be in communities close to family and support systems, not in state supported living centers where individuals are far away from home and further traumatized by institutionalization.
- Change the paradigm in all systems to recognize the need for quality mental health services and trauma-informed care for individuals with ID. Build capacity so that appropriate mental health services and trauma-informed care are accessible in our community local mental health authorities and local intellectual/developmental disability authorities.
- Correct billing barriers that often prevent individuals with ID from accessing mental health services.
- Develop expertise related to ID in existing crisis intervention teams.

- Review current policies and practices to identify changes needed related to victimization, witnessing, arrest, conviction, incarceration, and parole.
- Evaluate the data and determine what steps should be taken to reduce the disciplinary actions currently used in the education system against students with ID. Educators and administrators must have a better understanding of the mental health needs of students with ID and the impact of trauma on their behavior. The training is available. See *The Road to Recovery, Supporting Children with Intellectual Disabilities Who Have Experienced Trauma*, created through a partnership between the Hogg Foundation for Mental Health and the National Traumatic Stress Network. Note: Virginia Commonwealth University is currently developing a companion training specifically addressing the needs of adults with intellectual disabilities.
- HHSC, Texas Department of Criminal Justice, and the Texas Juvenile Justice Department should develop and implement strategies for supporting people with ID who are involved in the criminal justice systems and develop interdepartmental policies and procedures to ensure that the rights of individuals with ID are protected.
- Improve data collection and reporting for individuals with ID involved in criminal justice or juvenile justice systems.
- Review competency standards and competency restoration requirements to determine any changes needed to protect individuals with ID from getting stuck in the system with no way out.
- Review the New South Wales Law Reform Commission’s comprehensive report, *People with an Intellectual Disability and the Criminal Justice System*. It offers numerous recommendations that could be applied to the criminal justice and judicial systems in Texas.

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CITATIONS

¹ National Association of State Directors of Developmental Disability Services (NASDDDS), Human Services Research Institute (HSRI). National Core Indicators, 2015

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³ Sobsey, D. (1994). Violence and abuse in the lives of people with disabilities. Baltimore: Paul H. Brookes Publishing Co.

⁴ Davis, L. (2009). People with intellectual disability in the criminal justice system: victims and suspects. The Arc, US, Policy Brief, revised 2009. <http://www.thearc.org/page.aspx?pid=2458>

⁵ NSW Law Reform Commission. (1996). People with an intellectual disability and the criminal justice system. Report 80. <http://www.lawreform.justice.nsw.gov.au/Documents/Publications/Reports/Report-80.pdf>

⁶ Perske, R. (2011). Perske’s List: False Confessions from 75 Persons with Intellectual Disabilities. *Intellectual and Developmental Disabilities*: Vol. 49, No. 5, pp. 468–479, October 2011

⁷ Ibid.