

IN THE SUPREME COURT OF TEXAS AND THE TEXAS COURT OF CRIMINAL APPEALS

**Supreme Court Misc. Docket No. 18-9025
Court of Criminal Appeals Misc. Docket No. 18-004**

ORDER ESTABLISHING JUDICIAL COMMISSION ON MENTAL HEALTH

Recognizing that improving the lives of Texans who are affected by mental health issues and are involved in the justice system requires judicial leadership at the highest level, in June 2016 the Supreme Court of Texas directed the Texas Judicial Council to establish a Mental Health Committee. The Court charged the Mental Health Committee with examining best practices in the administration of civil and criminal justice for persons with mental illness.

The Mental Health Committee determined that Texas requires additional resources to ensure that: (1) mental health providers and professionals are able to provide timely and complete mental health assessments; (2) community-based mental health services are available to defendants; (3) outpatient treatment services and education services are available to those providing competency restoration services; (4) inpatient mental health facilities other than those operated by the Department of State Health Services are available for purposes of competency restoration; and (5) jail-based competency restoration programs, either state-funded or county-funded or both, are available.

The Texas Legislature invests heavily each year in behavioral and mental health systems to address mental illness and associated disorders. Yet the criminal justice system still serves as a default provider of mental health services for many Texans. This impact is most often felt at the local level where jail costs related to mental illness exceed \$50 million each year in some counties.

Courts and the justice system have a profound impact on mental health services provided to children, adults, and families in this state, and the stakes are exceedingly high. As gatekeepers for families and individuals in crisis, courts must make life-altering decisions that require knowledge of multiple and complex issues such as childhood and adult trauma, abuse, neglect, intellectual and developmental disabilities, substance use, family violence, poverty, racism, and military combat, and how each affects a person's mental health. Too often, courts lack the technology, training, and resources needed to make well-informed decisions.

The Mental Health Committee identified other problems that traditionally exist where complex human service systems intersect with the judicial system, including:

- overcrowded dockets, leaving courts inadequate time to thoughtfully consider the multiple issues that persons with mental illness present and confront;
- a lack of communication, coordination, and collaboration between and among the courts, the state and local mental health providers, attorneys, and mental health advocates;
- a need for specialized, multidisciplinary legal training, and the means to develop and share best practices;
- a lack of technology to efficiently manage dockets and to track and analyze cases and caseloads involving mental health challenges;
- a lack of adequate training and fair compensation for attorneys;
- a need for the children and adults involved in the justice system to have a voice in decisions that affect their lives; and
- a lack of community resources to provide adequate mental health services to children, youth, and families.

The Mental Health Committee also recommended the establishment of a permanent judicial commission on mental health, similar to the Supreme Court’s Children’s Commission, the Texas Access to Justice Commission, and the Texas Indigent Defense Commission.

Many organizations and individuals throughout the state share a commitment to improving mental health services to Texans, but no single entity is able to coordinate and implement a comprehensive effort aimed at the improvement of the administration of justice in this area.

On January 11, 2018, the Supreme Court and the Court of Criminal Appeals held a historic joint hearing to gather input on what should comprise the priorities of a statewide judicial commission. Mental health experts, state and tribal judges, law enforcement, veterans, juvenile services experts, psychologists, psychiatrists, and persons with lived experience with these systems, provided valuable insight at the hearing and voiced unqualified support for the creation of a statewide judicial commission.

Therefore, the Supreme Court of Texas and the Texas Court of Criminal Appeals (“the two Courts”), having reviewed the report of the Judicial Council’s Mental Health Committee, and

understanding the urgency expressed by various community stakeholders and participants in the Texas mental health system, HEREBY ORDER:

The Judicial Commission on Mental Health (“the Commission”) is created to develop, implement, and coordinate policy initiatives designed to improve the courts’ interaction with—and the administration of justice for—children, adults, and families with mental health needs.

The Judicial Council’s Mental Health Committee, chaired by the Honorable Bill Boyce of Houston, is commended for its examination of best practices and identification and review of innovative approaches to improve the administration of justice in cases involving mental health issues. The Judicial Council’s Mental Health Committee will remain intact until it is dissolved by the Judicial Council upon the Commission’s recommendation, at which time the Committee’s duties will transition to the Commission.

The Commission will:

- develop a strategic plan for strengthening courts and the administration of justice in relation to Texas’ mental health system;
- identify and assess current and future needs for the courts to be more effective in achieving positive outcomes for Texans with mental illness;
- promote best practices and programs that are data-driven, evidence-based, and outcome-focused;
- improve collaboration and communication among courts and the mental health system stakeholders;
- endeavor to increase resources and funding and maximize the effective and efficient use of available judicial system resources;
- promote appropriate judicial training regarding mental health needs, systems, and services;
- establish a collaborative model that will continue systemic improvement within the judiciary beyond the tenure of individual Commission members;
- oversee the administration of funds appropriated and granted to the Commission; and
- provide progress reports to the two Courts.

The Commission will consist of no fewer than fourteen (14) Commissioners. The Commission will be co-chaired by a justice of the Supreme Court of Texas and a judge of the Texas Court of Criminal Appeals appointed by their respective Courts. The two Courts shall appoint a justice from the Texas Courts of Appeals to serve as Vice Chair of the Commission. The first collection of Commissioners shall be appointed by a joint order of the two Courts. Thereafter, new Commissioners shall be appointed jointly by the Chief Justice of the Supreme Court and the Presiding Judge of the Court of Criminal Appeals (“the two chiefs”). Each Commissioner shall serve a two-year term and may be renewed by the two chiefs at their discretion. A vacancy on the Commission is created by a Commissioner’s three consecutive absences from scheduled Commission meetings, subject to reappointment or the resignation of the Commissioner.

The Commissioners shall include members of the judiciary, members of the juvenile, criminal, and child protection systems and community, representatives of the business and legal communities, representatives of foundations or organizations with a substantial interest in mental health matters, and other state and local leaders who have demonstrated a commitment to mental health matters affecting Texans.


The Governor is invited to designate a person to serve as an ex-officio member of the Commission. The Lieutenant Governor and the Speaker of the House are invited to designate a member from the Texas Senate and the Texas House of Representatives, respectively, to serve as ex-officio members of the Commission. Ex-officio members appointed by the Governor, Lieutenant Governor, and Speaker serve at the pleasure of the appointing officer.

The two Courts recognize that participation by a broad spectrum of persons involved with the mental health, juvenile, criminal, and child welfare systems is critical to the Commission’s success. Accordingly, the Commission is empowered to appoint an advisory council as necessary to ensure the Commission is informed by experts in multiple disciplines. Members of the advisory council may attend Commission meetings and may serve on committees as determined by the Commission.

The Commission may adopt rules as necessary for the performance of the Commission’s duties and may form new committees or disband existing committees as it deems appropriate.

The Honorable Jeff Brown, Justice, Supreme Court of Texas, and the Honorable Barbara Hervey, Judge, Texas Court of Criminal Appeals, shall serve as the initial Co-Chairs of the Commission. The Honorable Bill Boyce, Justice, Fourteenth Court of Appeals, shall serve as the initial Vice Chair.

SIGNED BY THE SUPREME COURT OF TEXAS this 13th day of February, 2018.



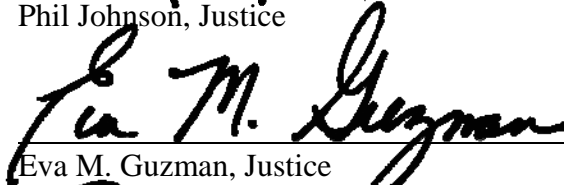
Nathan L. Hecht, Chief Justice



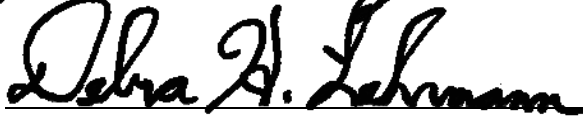
Paul W. Green, Justice



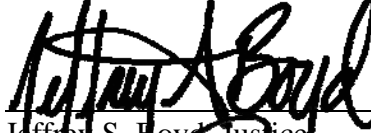
Phil Johnson, Justice



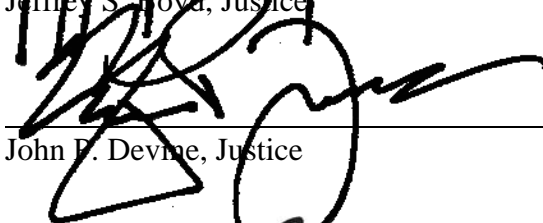
Eva M. Guzman, Justice



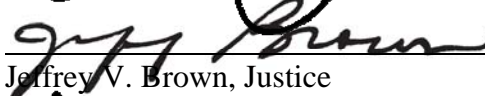
Debra H. Lehrmann, Justice



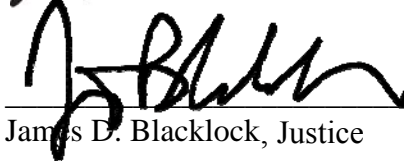
Jeffrey S. Boyd, Justice



John F. Devine, Justice



Jeffrey V. Brown, Justice



James D. Blacklock, Justice

SIGNED BY THE TEXAS COURT OF CRIMINAL APPEALS this 13th day of February, 2018.

Sharon Keller
Sharon Keller, Presiding Judge

Michael Keasler
Michael Keasler, Judge

Barbara Hervey
Barbara Hervey, Judge

Elsa Alcala
Elsa Alcala, Judge

Bert Richardson
Bert Richardson, Judge

Kevin P. Yeary
Kevin P. Yeary, Judge

David Newell
David Newell, Judge

Mary Lou Keel
Mary Lou Keel, Judge

Scott Walker
Scott Walker, Judge