

## **Mental Health Committee Recommendation** **To Establish a Permanent Judicial Commission on Mental Health**

### **Introduction and Summary**

The Texas Judicial Council’s Mental Health Committee met on December 8, 2016, to address whether a permanent judicial commission on mental health should be established. In attendance were committee members Sen. Judith Zaffirini, Judge Polly Spencer, Judge Gary Bellair, Ashley Johnson, and Justice Bill Boyce. Also in attendance were David Slayton, Administrative Director of the Office of Court Administration, and advisory committee members Dr. Tony Fabelo, Beth Ann Lawson, Judge Barbara Hervey, Dr. William Schnapp, Adrienne Kennedy, and Justice Harriet O’Neill.

The committee recommends that the Supreme Court of Texas and the Texas Court of Criminal Appeals jointly create a permanent judicial commission on mental health. Such a commission will provide a continuing vehicle for the judiciary’s participation in addressing mental illness and related issues as they affect the administration of civil and criminal justice in Texas.

The committee makes this recommendation because a permanent commission can harness the judiciary’s convening power to identify problems and solutions; take the long view across multiple legislative sessions; serve as a repository for information and expertise concerning mental illness; promote consistent implementation of legislation and procedures; assist with judicial training; and coordinate among multiple stakeholders whose areas of focus include the intersection of mental illness and the justice system. Activities undertaken by a commission that is of, by, and for the judiciary will help Texas courts respond more effectively to the challenges of mental illness and related issues.

### **Discussion**

In making its recommendation the committee reviewed information concerning (1) an August 2016 survey prepared by the Meadows Mental Health Policy Institute for Texas, which addressed the structure and effectiveness court-focused mental health initiatives in 13 states; and (2) the work of existing judicial commissions in Texas.

The survey revealed that the 13 court-focused mental health initiatives outside Texas have been led by the judiciary in each state; two of the initiatives were created

by legislation, and the remainder were court-created. Illinois has a judiciary-only body, while the others involve multiple stakeholders including the executive and legislative branches of state government; community groups; experts; attorneys; and law enforcement. Sizes range from 14 to 80 members, with average membership of 36 members. The charges for these bodies vary greatly in specificity, with a primary focus on criminal matters. Topics include diversion, education and training, information-sharing, involuntary commitment, conservatorship, and juvenile care. Funding also varies; these bodies draw their operating funds from sources including court administrative offices, state supreme courts, state departments of mental health services, direct legislative appropriation, state bar associations, policy groups, and private philanthropy. The most effective of these initiatives consider a broad range of issues; make specific recommendations; obtain stable funding and sufficient staffing, meet regularly; and work with state court administrative bodies.

Existing judicially led commissions in Texas also provide a model for effective problem-solving. In particular, the committee looked at the example set by the Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families, established in 2007; the Texas Indigent Defense Commission, established in 2001 and operating as a permanent standing committee of the Texas Judicial Council; the Access to Justice Commission, established in 2001 with staff and financial support provided by the State Bar of Texas; and the Commission to Expand Civil Legal Services, established in 2015.

The committee believes a judicially led commission built from the bottom up offers the best mechanism to improve the administration of justice for all Texans affected by mental illness. To achieve this goal, the committee initially recommends full funding of an executive director-level staff position. The executive director would be tasked with identifying key stakeholders and creating a working group that will lay the foundation for a permanent commission. Among other things, the working group will refine the permanent commission's charge; obtain input from experts and stakeholders; establish a structure for the commission; and identify long-term funding strategies. Once this process has been completed, the working group's proposal can be presented to the Texas Court of Criminal Appeals and the Supreme Court of Texas for consideration.

## Next Steps

1. Obtain funding for an executive director-level staff position.
2. Create a working group to lay the foundation for a permanent commission.
3. Convene stakeholders and experts to identify issues and strategies.
4. Refine the commission's charge.
5. Prepare a plan for the commission's structure and funding.
6. Present findings and recommendations at a joint hearing of the Texas Court of Criminal Appeals and the Supreme Court of Texas.