

Creating a Judicial Commission on Mental Health



The Supreme Court of Texas and
The Texas Court of Criminal Appeals
Planning Committee
February 9, 2018

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Presiding Judge Sharon Keller

Justice Eva Guzman

Judge Barbara Hervey

Judge Mark Atkinson

Judge Sue Kurita

Justice Bill Boyce

Dr. Octavio Martinez

Judge Nelda Cacciotti

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In September 2017, the Supreme Court of Texas and the Texas Court of Criminal Appeals (“Courts”) appointed a Planning Committee to recommend the organizational structure,

membership criteria, and a proposed plan and timeline for launching a statewide judicial commission on mental health (“Commission”). The Planning Committee met four times and developed a plan with a broad range of goals and strategies.

To build the Commission on a firm foundation, the Courts first sought the advice of experts. The Planning Committee has expertise in mental health policy, civil and criminal law, and the structure and operations of judicial commissions. The Planning Committee was charged with the following:

- Recommend an organizational structure for the Commission;
- Recommend membership criteria, including terms and proposed rotations, to ensure that the Commission is effective, broad-based, and multi-disciplinary; and
- Develop a proposed plan and timeline for launching the Commission.

I. Background

In June 2016, the Texas Judicial Council established the Committee on Guardianship, Mental Health, and Intellectual and Developmental Disability (“Judicial Council Committee”) to:

- Gather stakeholder input and examine best practices in the administration of civil and criminal justice for those suffering from or affected by mental illness;
- Identify and review systemic approaches for diversion of individuals with mental illness from entering the criminal justice system;
- Make recommendations to the Texas Judicial Council on
 1. Systemic approaches for improving the administration of justice in cases involving mental health issues;
 2. Strategies to foster meaningful multi-disciplinary collaboration, enhance judicial leadership, develop and implement technology solutions, and explore potential funding sources; and
 3. Whether a permanent judicial commission on mental health should be created; and

- Recommend legislative changes that will improve the administration of justice for those suffering from or affected by mental illness and recommendations for diversion from the justice system, for consideration by the 85th Texas Legislature commencing in January 2017.

The Judicial Council Committee made many recommendations, including specific recommendations that resulted in legislation related to screening protocols, jail diversion, and competency restoration. The Judicial Council Committee's cornerstone recommendation was to establish a permanent judicial commission on mental health, similar to the Supreme Court Children's Commission, the Texas Access to Justice Commission, and the Texas Indigent Defense Commission. The Judicial Council Committee recommended the Commission develop strategic alliances to effectively move ideas to action.

II. Statement of Principles

The Planning Committee began by discussing many of the core values that the members believed to be integral to the Commission. The Planning Committee recommended that the Commission further develop its core principles to guide its members, with consideration of the following principles identified by this Planning Committee.

- Texas courts have an opportunity to improve the lives and life chances of the adults, youth, and children with mental health needs in the court system.
- Judges need specialized training, resources, and tools for the fair and efficient resolution of cases involving individuals with mental illness.
- Best practices should be evidence-based, data-driven, and outcome-focused.
- Collaboration among systems, participants, and the state, and input from diverse stakeholder groups that reflect local and state interests are essential for achieving the best possible outcomes for Texans.
- Technology solutions should be explored to assist the courts.

- Sharing appropriate information enhances judicial efficiency.
- Texas should coordinate with state and national organizations to promote innovative and effective practices, and enhance and maximize the availability and utilization of resources.

III. Recommendations

A. Goals and Strategies

The Planning Committee recommended that the following be among the goals and strategies for the Commission:

- Identify and assess current and future opportunities for the judiciary to be more effective in serving people with mental health needs in the Texas court system;
- Promote best practices that are evidence-based, data-driven, and outcome-focused;
- Educate the judiciary and attorneys on key concepts and definitions in mental health;
- Improve collaboration and communication among courts, local and state agencies, and other community partners;
- Improve court performance and accountability for better outcomes;
- Increase awareness of the courts' critical role in serving those with mental health needs in the criminal and civil courts, including the criminal justice, juvenile justice, and child welfare systems, and the need for enhanced resources;
- Identify funding and resource options for the Commission; and
- Provide leadership for meeting the needs of individuals with mental illness in the Texas court system.

B. Duties

The Planning Committee discussed the actions necessary to build and maintain an effective and sustainable statewide commission. The following key duties were recommended by the

Planning Committee for the Commission:

- Develop a mission statement and strategic plan, and consider opportunities for alignment with the goals and strategies of other stakeholders;
- Oversee state-appropriated funds and seek future funding;
- Establish procedures for evaluating program outcomes and financial compliance, including provisions for record keeping, reporting, and auditing;
- Adopt rules, including rules of order, as necessary for the performance of the Commission's duties; and
- Report regularly on Commission progress to the Courts.

C. Organizational Structure and Membership

The Planning Committee discussed the number of members that should serve on the Commission to allow the Commission to move to action quickly, while also providing a broad range of experience and diversity. The Planning Committee agreed the Commission should strive to select committee members who bring diverse perspectives and reflect varied ethnic, gender, legal, and geographic communities in Texas.

The Planning Committee recommended that the Commission membership be structured as follows:

- The Commission should consist of 18 to 25 members, but without a prescribed maximum;
- A member of the Commission serves either a two or four year term, without term limits;
- Commission members serve at the pleasure of the Courts;
- A vacancy on the Commission is created by three consecutive absences, subject to reappointment; and
- The Commission should be able to form new committees or disband existing ones as it deems appropriate.

The Planning Committee further recommended that the Courts appoint:

- A representative of the Texas Health and Human Services Commission;

- Ex-officio members designated by the Governor, the Speaker of the House, and the Lieutenant Governor; and
- A collaborative council comprised of community stakeholders to provide diverse perspectives, including representatives with lived experience. The Commission would determine the desired size and composition of a collaborative council. The collaborative council members would be invited to attend regularly scheduled meetings of the Commission and standing committees as the Commission deems appropriate.

D. Timeline

If the Courts accept the Planning Committee's recommendations, the Planning Committee recommends the following proposed plan and timeline for the launch of the Commission:

- Hold the first-ever, public joint hearing of both Courts to ensure broad public input and to build public support for the Commission in January 2018;
- Create the Commission by Order of the Courts so that the Commission is operational by April 2018;
- Transition appropriate duties from the Judicial Council Committee and be mindful of the transition in conducting its affairs;
- Evaluate staffing needs and funding sources for staffing needs;
- Consider appointing a Jurist in Residence;
- Develop an outreach campaign to create awareness of the Commission and its mission;
- Create a Judicial Summit on Mental Health in the fall of 2018; and
- Keep the Planning Committee intact to assist the Courts until the Commission's creation.