



Judicial Commission on Mental Health

Virtual Meeting

August 7, 2020

9:00am – 12:00pm





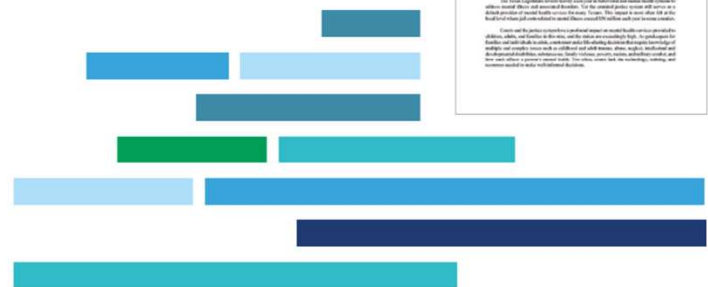
**2018-2020
Report to the Supreme Court of Texas
and the Texas Court of Criminal Appeals**





Visionary Leadership

Chief Justice Nathan Hecht and Presiding Judge Sharon Keller shared the vision of bringing Texas' two highest Courts together to create the Judicial Commission on Mental Health. The original Co-Chairs of the JCMH were Justice Jeff Brown and Judge Barbara Hervey. After Justice Brown was appointed the Judge of the U.S. District Court for the Southern District of Texas, Justice Eva Guzman, current Chair of the Children's Commission, served as the interim Co-Chair of the JCMH, until the appointment of Justice Jane Bland to the Supreme Court on September 11, 2019.





Leading Change in Texas

Judicial Summit on Mental Health

"Attending this event made me more aware of what I can do personally to facilitate, on a basic level, the solution for people in my community."

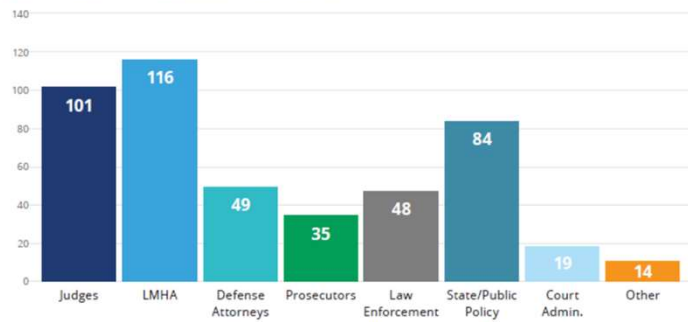
"The presentations were particularly well presented and imparted a wealth of information."

The Judicial Commission on Mental Health has hosted two annual Judicial Summits on Mental Health. The [first conference](#) was in October of 2018 in Houston, Texas, and was created in conjunction with the Supreme Court Children's Commission. At the Summit, leaders in civil and criminal justice, mental health treatment, and child welfare met to develop strategies to strengthen the judiciary's response to adults and children with mental health challenges or developmental and intellectual disability (IDD).

The [second annual Summit](#) was on November 18-19, 2019, in San Marcos, Texas. The 2019 Summit drew nearly five hundred judges and stakeholders from across the State of Texas to discuss and develop solutions to the many challenges faced by individuals in the court system with mental illness or IDD. Attendees included judges from all levels of the judiciary, academia, law enforcement, advocacy groups, prosecutors, defense attorneys, mental health and IDD service providers, representatives from various state agencies, policymakers, persons with lived experience, and many others.

Those who attended the Summit were encouraged not only by the information that was presented, but by the number and diversity of the participants. Many attendees commented on how much they appreciated the ability to network and collaborate with people from across the state whom they would not ordinarily encounter.

2019 SUMMIT ATTENDEE COMPOSITION



"The energy of the Summit gives me hope that change is coming to help reduce the forensic bed population in state hospitals and jail beds in the 254 counties."



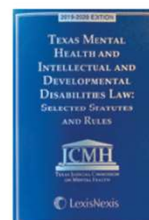
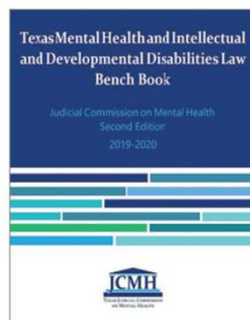
Education Projects

Texas Mental Health and Intellectual and Developmental Disabilities Law Bench Book – 2nd Edition

"It's an incredible document on a complex process. I admire and appreciate your passion for this work."

"I've been a police officer for twelve years and this is the first time some of this was explained."

The Bench Book is a 165-page book for Texas judges hearing cases regarding persons with mental illness and/or IDD. Each section contains applicable statutory processes, relevant best practices and guidance, and cross-references to mandatory forms. The second edition of the Bench Book was released at the Judicial Summit on Mental Health on November 18, 2019. This edition includes two new sections on civil commitment and criminal competency restoration. The JCMH quickly distributed five hundred Bench Books—with many attendees asking for copies to take back to their counties—and is currently taking orders for the new printing of an additional five hundred books. The Bench Book is also available in [digital form](#) on the JCMH website.



Texas Mental Health Code Book

Building on the popular and extremely beneficial work of Chris Lopez at the Texas Health and Human Services Commission, the JCMH created Texas Mental Health and Intellectual and Developmental Disabilities Law: Selected Statutes and Rules, a collection of Texas statutes related to mental health and IDD in one convenient volume. Lexis printed 1,000 hard copies of this resource, which are available to those who would like to order a copy, and the [digital version](#) is available on the JCMH's website. Stakeholders may also purchase a hard copy through Lexis if they are unable to secure one of the initial 1,000 copies.

Legislative Summaries

The JCMH created and distributed various [legislative summaries](#) of bills passed during the 86th Legislative Session, including:

- a comprehensive review of all new bills related to mental health and IDD;
- a summary of these bills sorted according to the Sequential Intercept Model; and
- detailed one-page summaries of the three main bills affecting mental health law from the 86th Legislative Session.





Online Forms Bank

Judges from several Texas counties have submitted nearly 100 sample forms related to mental health court processes that are currently on the JCMH website. These forms are meant to be resources for courts, and new forms will be added to the [Forms Bank](#) as they are received.

Bench Cards

In partnership with the National Center for State Courts, the JCMH created and distributed bench cards entitled [“Leading Change: Improving Courts’ Response to Mental Health and Intellectual and Developmental Disability Needs”](#) and [“Assessing the Mental Health and IDD Landscape by Intercept.”](#)



Assessing the Mental Health and IDD Landscape by Intercept



Jurist in Residence

The Jurist in Residence for the Judicial Commission on Mental Health is the [Honorable John J. Specia Jr.](#) Judge Specia served as a District Judge of the 225th District Court and a Senior District Judge in San Antonio for nearly 30 years. The JIR acts as a consultant, trainer, and speaker to provide expert and seasoned judicial advice on matters affecting courts.

The JIR writes informative letters to keep judges updated on relevant changes to the law as well as share helpful resources and tools.

In September of 2019, the letter summarized some of the most important legislative updates regarding mental health and IDD from the 86th Legislative Session. The December 2019 letter spotlighted resources such as the grant program, the Bench Book, the Texas Mental Health Resource Guide, as well as some upcoming conferences. The January letter provided information and resources regarding creating a mental health court, a topic that was in demand at the Judicial Summit in November.



Mental Health Education and Resources from the Texas Court of Criminal Appeals

"It is my hope that, as resources are expanded across the state, we will all share in reshaping our approach to mental health."

– Judge Barbara Hervey

Education Grants

Pursuant to Chapter 56 of the Texas Government Code and the General Appropriations Act, the Judicial Education Section of the Court of Criminal Appeals administers grants for the purpose of providing continuing legal education courses, programs, and technical assistance projects. The grants are for judges, court personnel, prosecuting attorneys and their personnel, and criminal defense attorneys who regularly represent indigent defendants in criminal matters. The grants are also for law enforcement officers, law students, and other participants to attend innocence training programs related to defendants' claims of factual innocence following conviction. And in 2017, the Texas Legislature passed the Judge Julie Kocurek Judicial and Court Security Act, providing grants to train individuals responsible for providing court security.

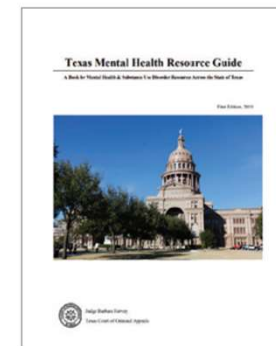
The Texas Legislature has continued to invest resources into the mental health system and is particularly interested in the implementation of mental health education. In 2017, the Legislature appropriated funds to the Court of Criminal Appeals to provide grants for continuing legal education, courses, and programs for judges and court staff, prosecuting attorneys, and criminal defense attorneys on mental health issues and pre-trial diversion. The Legislature specified that judicial education shall include information for judges and staff on mental health care resources available in the court's geographic region.

In 2010, the Legislature appropriated additional funds to the Court of Criminal Appeals for the development of a training program to educate and inform judges and their staff on mental health care resources available in the State of Texas.

Currently, there are eight grantee organizations who conduct mental health training: the Texas Center for the Judiciary, the Texas Municipal Courts Education Center, the Texas Justice Courts Training Center, the Center for American and International Law, the Texas Association of Counties, the Texas District and County Attorneys Association, the Texas Criminal Defense Lawyers Association, and the Texas District Court Alliance. These organizations provide conferences, webinars, bench books, forms, flow charts, and links to other helpful resources.

Texas Mental Health Resource Guide

Judge Barbara Hervey had a vision for a statewide, comprehensive resource guide with practical information to improve the lives of those in the criminal justice system who might be better served through alternatives to incarceration. With assistance from the grantee organizations, the Court of Criminal Appeals brought this vision to fruition and released the [Texas Mental Health Resource Guide](#). The Resource Guide provides an explanation of mental health services and lists resources indexed by type, region, and county. The Resource Guide is intended to be continually updated so readers are invited to send the Court of Criminal Appeals any information or resources for the benefit of those with mental health challenges.



Legislative Research Committee

Committees and Collaboratives



Legislative Research Committee

On October 1, 2019, the Supreme Court of Texas and the Court of Criminal Appeals of Texas appointed twenty-two members to the JCMH Legislative Research Committee. The Court liaison from the Supreme Court is Justice Jane Bland, and the liaison from the Court of Criminal Appeals is Judge Barbara Hervey. The Chair of the Committee is Justice Bill Boyce. The Committee's purpose is to assist the two Courts in studying the organization and practices of the Texas judicial branch related to behavioral and mental health needs. The Committee's first meeting was December 5th, 2019. After this meeting, the Committee created three workgroups:

- Competency Restoration
- Diversion
- Services

The Committee and its workgroups met throughout spring 2020 to formulate a slate of legislative recommendations that will be presented to the Texas Judicial Council for consideration in anticipation of the 87th Legislative Session.

COMMITTEE MEMBERS

Hon. Bill Boyce, *Chair*, Houston
Hon. Camile DuBose, Uvalde
Hon. Drue Farmer, Lubbock
Kevin Garrett, Austin
Dr. Courtney Harvey, Austin
Hon. Guy Herman, Austin
Hon. Barbara Hervey, Austin
Senator Joan Huffman, Houston
Dr. Andrew Keller, Dallas
Hon. Evelyn Keyes, Houston
Hon. Stacey Mathews, Round Rock
Beth Mitchell, Austin
Representative Joe Moody, El Paso
Hon. Roxanne Nelson, Burnet
Prof. Brian Shannon, Lubbock
David Slayton, Austin
Lt. Scott Soland, Fort Bend
Hon. John Specia, San Antonio
Hon. Polly Spencer, San Antonio
Hon. Charles Stephens, New Braunfels
Hon. Ryan Turner, Austin
Hon. Cynthia Wheless, McKinney



Legislative Research Committee

- 3 Subcommittees: *Competency Restoration; Diversion; Services*
- 11 Legislative Recommendations:
 - *Defendant with Lack of Capacity in Justice and Municipal Courts*
 - *Acceptance of a Plea in Justice and Municipal Courts*
 - *Time Periods for Competency Orders*
 - *Pilot and County Competency Programs*
 - *Deadlines for Competency Evaluations*
 - *Time Credit for Outpatient Competency Restoration Programs*
 - *Stepdown Option from Court-Ordered Inpatient to Outpatient MH Services*
 - *Expert qualifications in competency/insanity evaluations*
 - *Oath and Promise to Appear for Persons with MI/IDD*
 - *16.22 Interview for a Defendant No Longer in Custody*
 - *Psychiatric Stabilization at the Jail*
- **Report:** *Services to Improve the Judicial Response to Mental Illness and Intellectual and Developmental Disabilities*

LRC Services Subcommittee Report

Services to Improve the Judicial Response to MI and IDD

- Explains the essential need for services for a functioning judiciary and identifies gaps in these services
- Identified ten areas of services that would benefit the judiciary in assisting those with mental illness or IDD
 1. Crisis services
 2. Early identification interviews and services
 3. Multisystemic therapy for youth
 4. Diversion options/mental health resources for judges
 5. Outpatient competent and jail-based competency restoration programs
 6. Continuity of psychoactive medication
 7. Peer support services
 8. Re-entry services with life skills
 9. MH services for individuals with IDD
 10. Housing
- Texas has some form of each, however, the need for the continuation and expansion of these types of services and support significantly exceeds the current availability.

Supreme Court SB 362 Task Force

Supreme Court SB 362 Task Force

The 86th Legislature enacted Senate Bill 362, which directed the Supreme Court to adopt rules to streamline and promote the efficiency of court processes under Chapter 573 of the Health and Safety Code and adopt rules or implement other measures to create consistency and increase access to the judicial branch for mental health issues. The Supreme Court established the [Task Force for Procedures Related to Mental Health](#) to make recommendations to the Court. The Chair of the Task Force is Judge Brent Carr, and the Court's liaison is Justice Jane Bland. The Task Force must submit a Status Report to the Supreme Court of Texas by December 1, 2020. The first meeting of the Task Force was December 2, 2019.



The members decided that there were four areas on which the Task Force will concentrate its initial efforts:

- Recommendations regarding a possible technology solution to address some of the problems faced in the emergency detention process;
- The standardization of some common mental health forms;
- Legislative recommendations for the 87th Legislative Session; and
- Long-term policy and legislative recommendations.

TASK FORCE MEMBERS

Hon. Brent Carr, *Chair*, Fort Worth
Monique Allen, Houston
Hon. Bill Boyce, Houston
Hon. Danny Dominguez, Laredo
Dr. Melissa Eshelman, Austin
Dr. Robert Greenberg, Temple
Hon. Clay Harrison, Sulphur Springs
Dr. Courtney Harvey, Austin
Hon. Barbara Hervey, Austin
Hon. Guy Herman, Austin
Hon. Dave Jahn, Denton

Lee Johnson, Austin
Major Mike Lee, Houston
Beth Mitchell, Austin
Hon. Roxanne Nelson, Burnet
Denise Oncken, Houston
Hon. Robin Ramsay, Denton
Prof. Brian Shannon, Lubbock
David Slayton, Austin
Hon. John Specia, San Antonio
Hon. Ralph Swearingin, Ft. Worth
Steve Wohleb, Austin

Supreme Court SB 362 Task Force

- 3 Subcommittees: *Legislative Recommendations; Technology Solutions for Emergency Detention Warrants; and Forms*
- 5 Legislative Recommendations
 - *Officer's Duties Regarding Emergency MH Services*
 - *Expansion of Professionals Who May Apply for Emergency Detention Warrant*
 - *Seizure of Firearms Related to Persons in Emergency Detention*
 - *Authorization for Blood Draws*
 - *MH Stabilization Prior to Arrest*
- Report: *Exploring Technology Solutions for Emergency Detention Warrants*

Task Force Subcommittee Report

Exploring Technology Solutions for Emergency Detention Warrants

- Discusses how to improve the process of obtaining emergency detention warrants for individuals in hospital emergency rooms
- Issues Identified:
 - No legal authority for hospital to hold/detain a voluntarily admitted patient found to be a threat to self/others who wants to leave AMA
 - Lack of officers who timely respond to hospitals or initiate an emergency detention in these circumstances
 - Needing an emergency detention warrant outside of court hours
- Solution Discussed:
 - Electronic Warrant Process as model system (ex: DWI blood draw warrants)
- Concerns with Proposed Solution:
 - Privacy, confidentiality, & security of transmitted information
 - Who holds the records?
 - Who has access to the records?



Adjourn

