

Mental Health Committee Report

August 19, 2016

Charge: The Mental Health Committee was created in June 2016 to address (1) the administration of civil and criminal justice for those suffering from or affected by mental illness; (2) systemic approaches for diversion of individuals with mental illness from entering the criminal justice system; (3) recommendations to the Judicial Council on (a) systemic approaches for improving the administration of justice in cases involving mental health issues, (b) strategies to foster meaningful multi-disciplinary collaboration, enhance judicial leadership, develop and implement technology solutions, and explore potential funding sources, and (c) whether a permanent judicial commission on mental health should be created; (4) recommended legislative changes for consideration by the 85th Texas Legislature commencing in January 2017.

Members: Hon. Bill Boyce, Chair, Fourteenth Court of Appeals; Hon. Gary Bellair, Presiding Judge, Ransom Canyon; Ashley Johnson, Gibson Dunn & Crutcher LLP; Rep. Andrew Murr, Texas House of Representatives, District 53; Hon. Valencia Nash, Dallas County, Precinct 1, Place 2; Hon. Polly Spencer, Ret.; Sen. Judith Zaffirini, Texas Senate, District 21.

Advisory Members: Dr. Tony Fabelo, Council of State Governments Justice Center; Hon. Barbara Hervey, Court of Criminal Appeals; Adrienne Kennedy, National Alliance for Mental Illness; Beth Ann Lawson, StarCare Specialty Health System; Hon. Harriet O'Neill, Law Office of Harriet O'Neill; Dr. William B. Schnapp, Mental Health Policy Advisor to Harris County Judge Ed Emmett.

Potential Areas of Focus

Committee members met on July 1 and August 5 with OCA Administrative Director David Slayton to identify the following potential areas of focus with assistance from advisory members and representatives from the Meadows Mental Health Policy Institute. The committee will meet again in late September or early October to prioritize specific recommendations in anticipation of the October 28 Council meeting and the upcoming legislative session.

- Screening protocols for mentally ill defendants under CCP art. 16.22 and bond requirements under CCP art. 17.032.

- Improve transmission of art. 16.22 screening information to magistrates.
- Evaluate effectiveness of art. 16.22, compliance, feasibility of standardized forms, and statewide reporting; consider adjusting time requirements.
- Evaluate possible amendments to art. 17.032 to increase flexibility.
- Coordinate with Criminal Justice Committee recommendations on bonds.
- Mechanisms for competency restoration.
 - An appropriate medical environment is necessary for psychiatric stabilization, but education regarding pending charges, legal rights, and court process potentially can be accomplished in a non-medical environment after stabilization has been achieved.
 - Evaluate different phases of restoration; whether CCP art. 46B.071 should be amended to provide greater flexibility and more options for trial judges; availability and utility of treatment options in addition to in-patient hospitalization in a state hospital, including outpatient competency restoration, residential programs, and jail-based competency restoration.
- Requirements of contracts with Department of State Health Services to promote coordination among local mental health agencies, courts, and service providers; effect of contract provisions on options for preventive mental health treatment; contractual waiver to address payment if treatment is refused.
- Continuation and possible expansion of SB 1185 jail diversion pilot program based upon upcoming evaluation, tailored to local needs, resources, and conditions.
 - Expansion of judicial education on best practices for addressing needs of mentally ill individuals in the court system; promote use of appropriate terminology to avoid outmoded and disrespectful labels.
- Mandates for consistent data collection across all specialty courts to allow measurement of key factors including outcomes and recidivism.

- Suspension rather than termination of housing and benefits for mentally ill offenders during incarceration to reduce risk of recidivism upon release.
- Availability of services for juveniles and screening mechanisms to diminish delays in addressing first onset of psychosis between ages 15-25; options for requiring parental participation in counseling under Family Code §§ 54.041(a)(3), 61.002(a)(8).
- Mental health programs in rural areas.
 - Funding; flexibility in requiring local funding matches.
 - Impediments to care based on factors including distance, lack of local mental health professionals.
- Coordination with OCA guardianship compliance pilot program and guardianship reforms recommended by the Elders Committee.
- Establishment of permanent judicial commission on mental health.
 - Examples based on existing commissions including the following.
 - Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families.
 - Texas Access to Justice Commission.
 - Texas Indigent Defense Commission.
 - Mission, structure, funding.