



Emergency Detention Round Table Report

March 2023

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I. Introduction

On December 14, 2022, the Texas Judicial Commission on Mental Health held its second Round Table on emergency detention procedures. The first emergency detention Round Table occurred on December 4, 2018 and focused on the practice of using sequential emergency detention orders due to delays in the issuance of orders of protective custody. A [report](#) summarizing the discussion points was released and can be found on the JCMH website.

JCMH Leadership participated in the second Round Table discussion, including Supreme Court of Texas Justice Jane Bland, JCMH Chair; Supreme Court of Texas Justice Rebeca Huddle, JCMH Deputy Liaison; Hon. John J. Specia, Jr., JCMH Jurist-in-Residence; and Kristi Taylor, JCMH Executive Director. Invited guests included judges from all levels of the judiciary, medical professionals, law enforcement, attorneys, hospital and medical association representatives, and leaders from state agencies such as the Health and Human Services Commission. The JCMH is thankful to the Texas Hospital Association for the use of their meeting room for this event.

In 2022, JCMH staff recognized the need for a second Round Table on emergency detention while conducting training and technical assistance. Community after community had challenges interpreting and executing the laws related to emergency detention procedures. JCMH leadership determined that these complex issues needed to be explored.

The Honorable David Jahn, Judge of the Denton County Probate Court and JCMH Commissioner, served as moderator of the discussion and provided participants with a brief overview of the statutes governing emergency detention. Judge Jahn began the Round Table reminding the participants that the Texas Mental Health Code¹ begins by clearly stating that the patient's right to liberty must always be respected and balanced against society's interest in safety.

The Mental Health Code refers to involuntary civil commitment as court-ordered mental health services. Because court-ordered mental health services involve the denial of freedom, these involuntary commitments are only authorized when, as a result of their mental illness, a person is likely to pose a substantial risk of serious harm either to themselves or to others and inpatient mental health treatment is the least restrictive appropriate setting.

The process for court-ordered mental health services can be broken into three distinct parts: 1) Emergency Detention; 2) Protective Custody; and 3) Commitment (Inpatient or Outpatient). This Round Table addressed issues involving the initial process of emergency detention. To better understand these complex issues, Judge Jahn led the Round Table according to stakeholder group, in the following order: the judiciary, law enforcement, hospitals, and jails. The report follows the same structure and outlines the issues raised during the Round Table as well as some key learning points that were raised during the preparation for the Round Table.

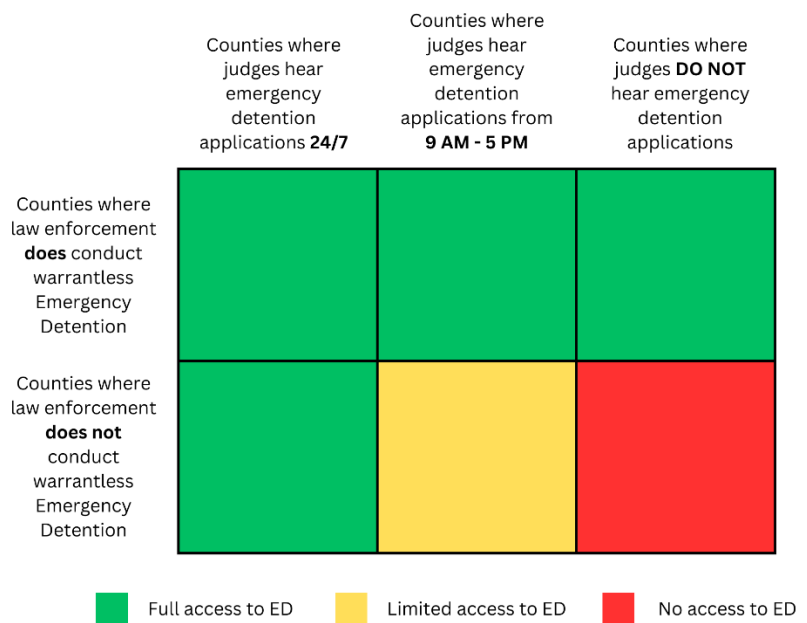
¹ Subtitle C of the Texas Health & Safety Code is referred to as the "Texas Mental Health Code."

II. Issues Presented

Emergency detention is the legal procedure by which a person experiencing a severe mental health crisis may be detained for a preliminary examination and crisis stabilization, if appropriate. Emergency detention may be accomplished through a guardian, a law enforcement officer, or a warrant from a magistrate. A magistrate, defined as any Texas judge under [Art. 2.09 of the Texas Code of Criminal Procedure](#), can sign emergency detention orders by virtue of being a magistrate; however, per [Texas Health and Safety Code § 573.012](#), this authority can be limited by the county’s judge with probate jurisdiction through administrative order.

Structures vary by county as to how emergency detention is accomplished and the extent to which access to the procedure is provided. JCMH has identified the following structures:

- Counties in which law enforcement conduct warrantless emergency detention warrants AND judges hear emergency detention applications around the clock;
- Counties in which law enforcement conduct warrantless emergency detention and judges hear emergency detention applications during regular business hours;
- Counties in which law enforcement conduct warrantless emergency detention and there are few to no judges who hear emergency detention applications;
- Counties in which law enforcement do not conduct warrantless emergency detention, but there are on-call Justices of the Peace who hear emergency detention applications around the clock;
- Counties in which law enforcement do not conduct warrantless emergency detention, but there are judges who hear emergency detention applications during regular business hours;
- Counties in which law enforcement do not conduct warrantless emergency detention and there are few or no judges who hear emergency detention applications.



The variation in structure can be explored through the perspectives of the many stakeholders.

A. Judiciary

Lack of Access to Judges for Emergency Detention Via Warrant

At the Round Table, participants agreed that guardians rarely apply for emergency detention warrants and that most applications for emergency detention warrants originate from hospitals and family members. This may be an issue to explore further as the appropriate use of guardianships continues to grow through efforts from the Texas Office of Court Administration on guardianship certification and monitoring, as well as the promotion of Centers of Excellence, an OCA program recognizing excellent work done by courts across the state, including guardianship fraud and abuse prevention.²

There was discussion as to whether emergency detention warrants are still used in Texas now that law enforcement officers can conduct emergency detentions. Judge Roxanne Nelson of Burnet County asserted that many counties, especially rural counties, still use the judiciary to accomplish emergency detention and that Texas Justices of the Peace issued over 12,000 such warrants in the 12-month period of December 2021 through November 2022.³

i. Lack of Judges Hearing Emergency Detention Applications

Both hospitals and family members in some Texas counties have experienced a lack of access to magistrates who will hear the application. JCMH heard from a few rural counties who stated they do not have a judge in their county who will issue an emergency detention.

To understand why this may occur, JCMH asked judges and stakeholders about the barriers to judges hearing emergency detention applications. One explanation is that there is a misunderstanding that there must be a mental health facility in the county to issue an emergency detention, which is not true.

Another barrier is the belief reported to JCMH by many judges that they do not feel adequately prepared to issue emergency detentions. Participants in the Round Table stated that training on mental health laws is offered to all new judges and to any judges who are interested. Among the dedicated judicial education organizations in Texas are the [Texas Justice Court Training Center](#), [Texas Municipal Courts Education Center](#), the [Texas Association of Counties](#), and [Texas Center for the Judiciary](#), all of whom provide regular training on mental health laws and processes. Judge

² Texas Judicial Branch, *Centers of Excellence: A Judicial Branch Performance Initiative*, <https://www.txcourts.gov/programs-services/centers-of-excellence/> (last visited March 17, 2023).

³ Texas Office of Court Administration, *Court Activity Reporting and Directory System, Justice Court Activity Detail, December 2021 to November 2022*, <https://card.txcourts.gov/> (last visited March 15, 2023) (showing 12,802 Emergency Mental Health Hearings Held by Justice Courts during this time period). Actual report available here: [https://card.txcourts.gov/oca_ReportViewer.aspx?ReportName=Justice Courts/JC Justice Court Activity Detail_HB79_N.rpt&ddlFromMonth=12&ddlFromYear=2021&txtFromMonthField=@FromMonth&txtFromYearField=@FromYear&ddlToMonth=11&ddlToYear=2022&txtToMonthField=@ToMonth&txtToYearField=@ToYear&ddlPrecinct=0&txtPrecinctField=@PrecinctID&ddlPlace=0&txtPlaceField=@PrecinctPlaceID&ddlCountyPostBack=0&txtCountyPostBackField=@CountyID&chkAggregateMonthlyReport=0&export=1706](https://card.txcourts.gov/oca_ReportViewer.aspx?ReportName=Justice%20Courts/JC%20Justice%20Court%20Activity%20Detail_HB79_N.rpt&ddlFromMonth=12&ddlFromYear=2021&txtFromMonthField=@FromMonth&txtFromYearField=@FromYear&ddlToMonth=11&ddlToYear=2022&txtToMonthField=@ToMonth&txtToYearField=@ToYear&ddlPrecinct=0&txtPrecinctField=@PrecinctID&ddlPlace=0&txtPlaceField=@PrecinctPlaceID&ddlCountyPostBack=0&txtCountyPostBackField=@CountyID&chkAggregateMonthlyReport=0&export=1706).

Tramer Woytek of the Texas Association of Counties (TAC) led this discussion, stating that although he believed there was good training available to judges, the state would benefit from a more unified approach among all of the judicial educators to ensure similar messages are being delivered.

JCMH also learned of the concern from judges that hearing emergency detentions applications is akin to asking the judge to serve as a mental health expert, leading some judges to decline to hear these applications. The Texas Municipal Courts Education Center and the Texas Justice Court Training Center (TJCTC) advise judges that they should perform this duty in their respective trainings. Specifically, TJCTC developed a presentation that states that a judge is bound by their Oath of Office in the Texas Constitution that the judge will “faithfully and impartially discharge the duties required by law.”⁴ TJCTC points to the Canons of the [Texas Code of Judicial Conduct](#) for guidance on the matter.⁵ Canon 3(A) states: “The judicial duties of a judge take precedence over all the judge's other activities. Judicial duties include all the duties of the judge's office prescribed by law.” Canon 3(B)(1) states: “A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate.” Canon 3(B)(9) states: “A judge should dispose of all judicial matters promptly, efficiently and fairly.” These training organizations teach that issuance of an emergency detention warrant under [Texas Health & Safety Code § 573.012](#) is a magistrate function to which these provisions of the Code of Judicial Conduct would apply.⁶

ii. Limited Access to Courts After Hours

Another impediment to court access is that courts typically operate during regular business hours, but mental health crises often occur at night or on weekends. In large counties such as Tarrant and Bexar, judges are available during the day to issue emergency detention warrants and law enforcement officers are available to issue emergency detentions on nights and weekends, so there are no gaps in access.

Judges from the mid-size and smaller counties in attendance also reported that they issue emergency detentions warrants, but there could be a gap in access after-hours if local law enforcement officers do not issue emergency detentions. Judge Nelson offered that she issues emergency detention warrants at all times of day and night.

⁴ Myers, Amber, Texas Justice Court Training Center, Emergency Mental Health Warrants/Emergency Detention Orders Handout, available <https://provost.txst.edu/mjdf38i3tv0b56vz/dam/jcr:60e4927c-87f0-4b71-bd56-b4a306d7d335/Emergency%20Mental%20Health%20Warrants%20Updated%20Handout.pdf> referring to the Oath of Office found in the Texas Constitution, Tex. Const. art. 16, § 1, available at <https://statutes.capitol.texas.gov/Docs/CN/htm/CN.16.htm>.

⁵ Texas Code of Judicial Conduct, amended by the Supreme Court of Texas through July 10, 2019, available at <http://www.sjc.texas.gov/media/46779/code-of-judicial-conduct.pdf>. “The Code is intended . . . to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.”

⁶ *Infra* at 4.

Judge Dave Jahn asked whether there is an expectation of uninterrupted access to the judiciary for emergency detention. Judge Woytek replied that, among the counties he works with at the Texas Association of Counties, there is a generally an expectation of nonstop access. However, that expectation may depend on whether Justices of the Peace share uninterrupted, on-call duty for death inquests. In counties where JPs share these death inquest responsibilities, the same judges will typically cover emergency detention duty around the clock. However, not all jurisdictions with on-call Justices of the Peace utilize this rotation for emergency detentions, nor does this account for counties in which the authority of a Justice of the Peace to sign emergency detention orders has been limited by the judge with probate jurisdiction in that county.

iii. Limited Access to Courts Due to In-Person Requirement

Magistrates must electronically accept, hear, and transmit emergency detention applications and orders when the applicant is a physician under [Texas Health & Safety Code § 573.012](#). Non-physician applicants are not permitted to complete this procedure electronically and must make in-person contact with the magistrate in order for their application to be considered and for a warrant to be issued, which can be a barrier to access. During the pandemic, many judges began using Zoom or FaceTime to safely meet this requirement, as the magistrate can fully question a non-physician applicant in the same manner as if they are face-to-face. For example, Tarrant County expanded access to the courts in 2020 when Justices of the Peace began conducting emergency detention hearings on Zoom, which became the preferred medium for these hearings in 2021 and 2022.

In April 2021, a committee of the Texas Judicial Council comprised of District Court Judges studied the effects of remote proceedings during the pandemic. They found that “remote proceedings have worked for every type of case and every type of proceeding; [and have] improved participation in terms of parties and how parties are able to participate.” The committee reported that the use of technology allowed greater access to the courts by people without transportation, with disabilities, or with employment that made coming to court a challenge.⁷ In Tarrant, this technology solution is only available during traditional business hours. Judge Nelson recommended a change in the statute to specifically allow for Zoom or FaceTime applications, presentations, and transmission of warrants for emergency detention to end the need for judges to meet with applicants in-person in the middle of the night.

B. Law Enforcement

i. Lack of Access in Some Counties in which Law Enforcement Does Not Perform Warrantless Emergency Detentions.

⁷ Texas Judicial Council, Minutes of the April 21, 2021 Meeting, available at https://www.txcourts.gov/media/1452675/tjc_minutes_final_april-9-2021.pdf (last visited March 16, 2023).

As with access to court-ordered emergency detention, participants agreed that law enforcement officers are available to perform warrantless emergency detentions in some counties but not in others. Again, the structure of how counties accomplish emergency detention varies.

Large counties generally have law enforcement available at all hours to perform warrantless emergency detentions. Some counties use warrantless emergency detentions exclusively due to the availability of multiple mental health law enforcement officers, and thus provide consistent access at all times.

For example, Travis County judges do not issue emergency detention warrants, and have not done so for over 30 years. Their website states:

Travis County has for the past thirty years exclusively used warrantless detentions, because it would be under unusual circumstances for a magistrate to issue an emergency detention warrant after the mental health unit has refused to make a warrantless emergency detention. This is not only because the detention criteria are the same but also because the magistrate relies heavily on the evaluation of these mental health professionals.⁸

Bexar County uses all of the possible options for emergency detention, but law enforcement officers complete approximately ten times as many warrantless emergency detentions as probate judges issue emergency detention warrants. Another example is in Williamson County, where the larger law enforcement agencies have trained most or all of their peace officers to issue warrantless emergency detentions.

a. Lack of Awareness of Law Enforcement Authority to Conduct a Warrantless Emergency Detention

In some parts of Texas, law enforcement officers are unaware that they can perform warrantless emergency detentions, also referred to as Applications by a Peace Officer Without a Warrant also know as an APOWW. For example, at a conference by the South Texas Justice of the Peace and Constable Association, very few of the counties in attendance reported law enforcement agencies that carried out emergency detention.⁹ Not all of the organization's 50 counties were represented at the conference, but this was recognized as a widespread regional problem. Many in attendance were shocked to learn law enforcement was authorized by law to perform emergency detentions and were requesting how to communicate this to local law enforcement.

⁸ Emergency Detention, TRAVISCOUNTYTX.GOV, available at <https://www.traviscountytexas.gov/probate/emergency-detention> (last visited March 15, 2023).

⁹ Kristi Taylor, Executive Director, Jud. Comm'n on Mental Health, Mental Health Issues in Magistration Including 16.22 Procedures, presentation at South Texas Justice of the Peace and Constable Association (November 17, 2022) <http://texasjcmh.gov/media/ps2pbro4/kristi-kama-at-stjpcsa.pdf>.

b. Lack of Law Enforcement Workforce

The concern about lack of staffing was echoed by many, and in many contexts. Many smaller and rural counties do not have enough law enforcement officers available to transport people to the closest hospital, which can be 300 or more miles roundtrip. Often, law enforcement report that they drive these long distances only to discover that a recently available hospital bed has since been occupied. The repetition of this circumstance may lead a police department to decline to perform warrantless emergency detentions, which are just one of many duties that officers are sworn to carry out. Large counties also have staffing concerns; Judge Ralph Swearingin noted that occasionally in Tarrant County, there are not enough Sheriff's Deputies available to serve emergency detention warrants.

This problem extends to situations when a person who has voluntarily been admitted to a hospital or to an emergency department becomes a danger to themselves or others and expresses a desire to leave the hospital. It was reported that few hospitals have licensed peace officers onsite to complete warrantless emergency detentions. Representatives from hospitals and hospital associations expressed the need for the legal means to hold people until a warrantless emergency detention can be completed by law enforcement or until a judge issues an emergency detention warrant. Currently, there are bills being considered by the 88th Legislature to resolve this issue.

c. Differing Opinions on the Definition of Substantial Risk of Serious Harm

The law enforcement officers at the Round Table agreed that it is a challenge to align officers and all other stakeholders on the definition of substantial risk of serious harm under the emergency detention statute. This issue may be considered in the 89th Legislative Session in an attempt to overhaul the civil commitment laws to clarify and improve the process. The issue also has national momentum: the Equitas Project led a task force of national experts, including JCMH Commissioner Professor Brian Shannon, to develop model civil commitment laws.¹⁰ In the alternative, the issues may be discussed in the current legislative session because [H.B. 726](#), filed on November 16, 2022, seeks to broaden the civil commitment standards to allow ordering mental health services for deterioration.

ii. Combining Two Distinct Problems, Jurisdictions in which Law Enforcement Does Not Perform Warrantless Emergency Detentions have No Access to the Procedure when Courts are Closed

¹⁰ Equitas Project, a National Initiative of Mental Health Colorado, Model Legal Processes to Support Clinical Intervention for Persons with Serious Mental Illnesses and Pathways to Care: A Roadmap for Coordinating Criminal Justice, Mental Health Care, and Civil Court Systems to Meet the Needs of Individuals and Society (August 2022), available at <https://www.mentalhealthcolorado.org/wp-content/uploads/2022/09/Model-Legal-Processes-to-Support-Clinical-Intervention-for-Persons-with-Serious-Mental-Illnesses-Final-9.2.2022.pdf>.

As noted above, smaller, and rural counties do not always have the law enforcement personnel available to complete warrantless emergency detentions. When the courthouse is closed, there is a gap in access to emergency detention. Some counties reported that individuals in crisis were referred to other counties or told to come back on Monday morning, which is not ideal.

C. Hospitals

Problems with Some Medical Centers Releasing Individuals Who Met Criteria

i. Lack of Resources Causes Delays

Many participants voiced that resources are scarce, including human resources. There are not enough hospital beds to accommodate all of the individuals under emergency detentions. This lack of resources combined with the hospitals' inability to hold people in Texas may explain why some mental health facilities are unable to conduct preliminary exams under the emergency detention statute in a timely manner. When hospitals run out of time, the result is often requests for sequential emergency detentions. At least one officer at the Round Table agreed that requests for stacking emergency detentions are a problem in their jurisdiction. Other participants noted that hospitals might release an individual in this circumstance and then request that law enforcement complete another emergency detention after the release. Considering the prior discussion about the limited law enforcement workforce, it is concerning to law enforcement that they may have to double their work by detaining an individual again and returning them to the hospital because the timelines were not met.

Another problem identified during the Round Table that might cause delay is that patients under emergency detention are transferred from the emergency room or hospital to the mental health facility, but the second hospital must be named in the emergency detention order in order to receive the person. For example, the emergency detention might be issued in the name of the Local Mental Health Authority (LMHA) rather than the treating hospital, so the hospital was discharging patients. Judge J.R. Woolley noted that when faced with this problem, he solved it by conferring with the LMHA and changing their procedure. Now, the LMHA screens the potential patient, locates an available facility, and shares this information with the court. Judge Woolley then issues the emergency detention order with the name of the facility that has agreed to accept the potential patient.

ii. Transportation of Patients Home from the Hospital

Law enforcement representatives advised that there is no enforcement of the law that states the entity transporting a patient to the hospital must return the patient to their home. This results in certain law enforcement agencies transporting more than their fair share of people home. On the other hand, hospital representatives stated that some agencies do not return to the hospital to safely transport discharged patients, as required in [Tex. Health & Safety Code § 573.024](#), and there is no mechanism to enforce this provision.

iii. Other Problems with Emergency Detention for Adults in Hospitals

At the Round Table, some participants stated they have encountered hospitals that are reluctant to accept patients under emergency detention because the civil commitment procedures that may follow require doctors to spend hours waiting in court to testify. One participant noted that the law allows, with proper notice, for a participant to appear at a court proceeding by videoconference, teleconference, or other available electronic means, which should partially alleviate this barrier.¹¹ Another participant opined that hospitals may not want contracts for state beds because the reimbursement rates are not competitive. The hospital representatives at the Round Table stated that the Emergency Medical Treatment and Labor Act (EMTALA)¹² prevents hospitals from rejecting patients based on their ability to pay.

iv. Confusion Regarding Youth Emergency Detention

Another discrete problem with emergency detention is a misunderstanding about how these procedures apply to youth. A person younger than 18 years of age may be taken into custody pursuant to an emergency detention.¹³ There are, however, different standards regarding age for related procedures such as voluntary mental health services, involuntary court-ordered mental health services, and consent for medication, which create confusion about emergency detention for youth.

A child 16 years of age or older may decide voluntarily to request mental health treatment.¹⁴ Voluntary admission does not involve the court, except when the involuntary commitment process is initiated because a voluntary patient, parent, managing conservator, or guardian of a person younger than 18 years of age requests discharge and a treating physician determines that the person poses a risk of serious harm to self or others unless continued treatment is provided.¹⁵ Generally, a child under the age of 18, including a child who is in the managing conservatorship of the Department of Family and Protective Services, may not be involuntarily committed unless provided by Chapter 572 of the Texas Health and Safety Code, Chapter 55 of the Texas Family Code, or department rule. Before a child can receive medical or mental health treatment, consent is required. Parents have both the duty to provide a child with medical care, and the right to consent to the child's medical and psychiatric care. Children under the age of 16 generally do not have the right to consent to medical or mental health treatment. However, children can consent to counseling for suicide prevention; chemical addiction or dependency; or sexual, physical, or

¹¹ [Tex. R. Civ. P. 21d](#).

¹² [42 U.S.C. § 1395dd](#) is also known as The Emergency Medical Treatment and Labor Act.

¹³ Tex. Health & Safety Code §§ [573.001](#), [573.011](#).

¹⁴ Tex. Health & Safety Code § [572.001\(a\)](#).

¹⁵ Tex. Health & Safety Code § [572.004](#).

emotional abuse.¹⁶ A more detailed explanation of these issues can be found in the *JCMH Texas Juvenile Mental Health and Intellectual and Developmental Disabilities Law Bench Book*.¹⁷

This chart serves as a quick reference of the above-described age standards:

Age	Can a person of this age be taken into custody under an emergency detention?	Can a person of this age consent to mental health treatment voluntarily?	Can a person of this age consent to counseling for suicide prevention; chemical addiction or dependency; or sexual, physical, or emotional abuse?	Can a person of this age be court-ordered to engage in involuntary mental health services?
Under age 16	Yes	No; consent of a parent, guardian, or appointed medical consenter is needed	Yes	Only as provided by Tex. Health & Safety Code Chapter 572; Tex. Fam. Code Chapter 55; or department rule
Age 16 or 17	Yes	Yes; or a parent, guardian, or appointed medical consenter can provide consent	Yes	Only if, after voluntarily receiving services, the person requests a discharge, and the treating physician determines the person poses a risk of serious harm to themselves or others unless continued treatment is provided
Age 18	Yes	Yes	Yes	Yes

¹⁶ Tex. Fam. Code § [32.004\(a\)](#).

¹⁷Texas Judicial Commission on Mental Health, *Texas Juvenile Mental Health and Intellectual and Developmental Disabilities Law Bench Book* (2d ed. 2021-2022) available at <http://texasjcmh.gov/media/2Injs3xz/jcmh-juvenile-bench-book-2nd-edition-2021.pdf>



D. Jails

Small Counties Struggle to Deal with Mental Health Crises in the Jail

The Texas Health and Human Services Commission (HHSC) recommends that emergency detention be used for people in the community, not in jail. Issues arise in small, rural jails both pre- and post-conviction where they feel emergency detention is the only way to get emergency psychiatric treatment. Many jail staff see sending a defendant to the state hospital for stabilization as similar to a defendant going to the hospital for a few days for an appendectomy.

An HHSC representative clarified that post-conviction emergency detention is not appropriate but pre-conviction is acceptable. Some judges in the room stated they used the state hospital in rare occasions post-conviction, but that it did happen. There was also the distinction made that there is another option with private hospitals: county jails could contract with local hospitals for stabilization services.

E. Public

Families and Individuals are Unaware of Emergency Detention Process

Judge Swearingin added another group of stakeholders to the conversation. He noted that the public is unaware that the emergency detention process exists until law enforcement, or the fire department, responds to their call. Adrienne Kennedy, Past President of the National Alliance on Mental Illness, seconded this notion and expressed the importance of educating the public on what to do when they need an emergency detention. Ms. Kennedy noted that while the rights of the individual are always important, there is also a humanitarian right to care.

III. Solutions Identified

Education & Collaboration

There is an opportunity to educate the public about mental health laws, procedures, and resources. Some participants suggested that a public service announcement campaign be developed to educate parents and family members of people with mental health conditions and

to encourage greater collaboration among families, schools, community agencies, and medical providers.

Increased collaboration among judges at different levels—for example, between justices of the peace and statutory probate judges—was also recommended as a priority solution, as were better relationships among judges of all levels, law enforcement, and hospitals.

While training on mental health laws and processes is available for judges and law enforcement from the various judicial education organizations, participants requested that the training message be cohesive across disciplines, that adherence to the relevant statutes be taught, and that the training be scalable to the individual county. It was suggested that the Judicial Commission on Mental Health offer a curriculum regarding emergency detention law and procedures. Other participants touted the value of the Commission's [Bench Book](#) and [Forms Bank](#) as resources but opined that they could be improved with more practical, step-by-step instructions on common procedures.

Finally, it was noted that the statutory warrantless emergency detention form is merely adequate. In contrast, many judges have a more detailed form that they use for applications. To present the best evidence to the court, the statutory warrantless emergency detention form could be rewritten to collect more or all of the information that is typically collected when hospital staff apply for an emergency detention warrant.

Technology

Many participants remarked that technology could improve legal procedures. It would be helpful to hospitals if some older paper forms for face-to-face hearings were converted to electronic forms for virtual meetings. Teleconference hearings would especially reduce the time that doctors spend traveling to court and increase the time they can see patients. Software or other technology that automates some or all of the legal process of obtaining a warrantless emergency detention could make it easier for law enforcement to use an emergency detention rather than book a person into jail.

Finding hospital beds continues to be a problem. A database, a system, or a point person to find beds would help law enforcement in the short term. One good example of this is the [Southwest Texas Crisis Collaborative](#) initiative of the [Southwest Texas Regional Advisory Council](#), which routes people to the next available hospital that is available. It was reported that the Crisis Collaborative is not without issues, as it can cause imbalance in the system.

Support for Law Enforcement

Attendees from law enforcement and the courts agreed that support for law enforcement would help the court system make good decisions, as courts rely on law enforcement for information in mental health cases. It was recommended that rural counties have at least one Mental Health Peace Officer or that Mental Health Peace Officers could be pooled among rural counties for wider coverage.

A call for increased funding from the legislature for more hospital beds was echoed by participants from all disciplines. More than 60 counties do not have a hospital and many rural hospitals cannot provide psychiatric care. Law enforcement officers can spend hours attempting to locate an open hospital bed and transporting an individual to that hospital. A long-term solution would be a continued increase in funding for more public and private hospital beds, along with all of the HHSC efforts to attract more workforce and repair any hospital wings that are offline due to safety concerns from structural problems. Currently, many open beds are private hospital beds that are paid for through state contracts. While private hospitals are required to accept individuals under an emergency detention, that does not always happen, due to the cost of operating that bed. Law enforcement time could be recovered if there were more open hospital beds for people under emergency detentions.

Another request from law enforcement was legislation to prevent the abandonment of people involved with civil commitment processes. Counties that are home to hospital systems reported that people are brought to the hospital from distant locations for assessment and treatment. When those people are released, they have no local housing or transportation support, so they become part of the growing homeless population. Although [Texas Health & Safety Code § 573.024](#) requires that a released person be returned to their home or to where they were found, there is no mechanism to enforce this provision and attendees confirmed that it rarely occurs.

Legislation

In addition to the anti-abandonment legislation that was suggested above, there was discussion regarding the possibility of a four-hour hold in which medical professionals could temporarily hold a person in the medical facility while paperwork for an emergency detention is completed. Representatives from the hospital and medical associations supported this proposal, although there was opposition from some advocates. Many participants voiced the need to balance an individual's rights with the safety of the individual and medical professionals.

A second legislative proposal concerning the formation of a pool of visiting judges who would be on call around the clock to complete emergency detention warrants was also discussed. Some attendees opined that it could be confusing, but representatives from the hospital and medical associations expressed openness to the idea.

Another legislative solution would be to explicitly allow hospitals to hold patients who are under a warrant for emergency detention.

County Mental Health Law Plans

County Mental Health Law Plans are one idea born from the Round Table discussions. JCMH will create templates to help pilot counties assess their current procedures regarding emergency detention. The templates will help develop plans to reduce any gaps or redundancies and inform community members of the procedures utilized by their county, thereby increasing access to

justice. The plans could include multi-disciplinary agreements but will first focus on the structure of the judicial assignments.

IV. Next Steps

At the conclusion of the Round Table, it was clear that the discussion was an important step in the JCMH's ongoing effort to collaborate and lead in the area of mental health law education. The Commission is committed to continuing this effort with Round Table participants and other key stakeholders.



V. Appendix

Round Table Participant List

Hon. Dave Jahn, Moderator

Judge
Denton County Probate Court #1

Hon. Clint Alexander

Associate Judge
Williamson County Court at Law #2

Chief Jeffrey Clark

Deputy Chief
Temple Police Department

Colleen Davis, J.D.

Assistant County Attorney
Burnet County Attorney's Office

Alyse Ferguson, J.D.

Chief Attorney
Collin County Mental Health Managed
Counsel

Dr. Benigno Fernandez

Chief Medical Officer
Laurel Ridge Treatment Center

Sara Gonzalez

Vice President, Advocacy and Public Policy
Texas Hospital Association

Hon. Guy Herman

Judge
Travis County Probate Court

Lee Johnson, M.P.A.

Chief Executive Officer
Texas Council of Community Centers

Kathy Johnston

Rural Health Specialist
State Office of Rural Health

Hon. Oscar Kazen

Judge
Bexar County Probate Court #1

Adrienne Kennedy, M.A.

Past President
National Alliance on Mental Illness

Megan LaVoie, J.D.

Administrative Director
Office of Court Administration

Chris Lopez, J.D.

Assistant General Counsel
Texas Health and Human Services
Commission

Vilma Luna, J.D.

Consultant
Vilma Luna L.L.C.

Officer Brittany Moreno

Crime Prevention Police Officer
Sugar Land Police Department

Amber Myers, J.D.

Staff Attorney
Texas Justice Court Training Center

Hon. Roxanne Nelson

Justice of the Peace
Burnet County Precinct One

Officer Terry Qualls

Crisis Intervention Coordinator
McKinney Police Department

Luis Santos, M.S.W.

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Hon. John J. Specia, Jr. (Ret.)

Senior District Judge, Jurist in Residence
Texas Judicial Commission on Mental Health

Hon. Charles Stephens

Judge
Comal County Court at Law #2

Hon. Ralph Swearingin

Justice of the Peace
Tarrant County Precinct One

Louis Tomasetti, M.S.M.L

Court Services Manager
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Senior Vice President and General Counsel
Texas Hospital Association

Hon. J.R. Woolley

Justice of the Peace
Waller County Precinct Two

Hon. Tramer Woytek

Judicial Resource Liaison and County
Relations Officer
Texas Association of Counties

Supreme Court of Texas

Hon. Jane Bland

Chair, Texas Judicial Commission on Mental Health

Hon. Rebeca Huddle

Deputy Liaison, Texas Judicial Commission on Mental Health

Texas Court of Criminal Appeals

Elise Villers, J.D., for Hon. Barbara Hervey and Hon. Jesse McClure, III

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