

JUDICIAL SUMMIT  
*on*  
MENTAL HEALTH  
REPORT



October 22 – 23, 2018

Houston, Texas



Collaborate.  
Educate.  
Lead.





## **Executive Summary**

The Judicial Commission on Mental Health (JCMH) partnered with the Supreme Court Children’s Commission to host the inaugural Judicial Summit on Mental Health on October 22-23, 2018, in Houston, Texas. The Summit represented the first conference of the JCMH, a joint commission by the Supreme Court of Texas and Texas Court of Criminal Appeals.

The Summit drew leaders from across the state in the child welfare, juvenile justice, and criminal justice court systems to discuss and develop solutions to the many challenges faced by individuals in those courts systems with mental health or intellectual and developmental disabilities (IDD). Attendees included judges from all levels of the judiciary, academics, law enforcement, advocacy groups, prosecutors, mental health and IDD service providers, representatives from various state agencies, policymakers, persons with lived experience, and many others.

The Summit was divided into three sessions: (1) a plenary session for all attendees; (2) an adult track and a youth track; and (3) regional breakout groups for adult-track participants. Supreme Court of Texas Chief Justice Nathan Hecht opened the Summit, followed by Supreme Court Justice Eva Guzman, Supreme Court Justice Jeff Brown, and Texas Court of Criminals Appeals Judge Barbara Hervey. Justice Bill Boyce of the Fourteenth Court of Appeals served as emcee the first day and introduced the JCMH Texas Mental Health and Intellectual and Developmental Disabilities Bench Book.

### **Plenary Session: Mental Health Policy and Specialty Courts**

Plenary-session speakers included Dr. Carol Nati of My Health My Resources of Tarrant County, Pecan Valley Centers, and Helen Farabee Centers; Dr. Andrew Keller of the Meadows Mental Health Policy Institute; Judge Ruben Reyes of the 72nd District Court in Lubbock County; and Houston Police Chief Art Acevedo. The presentations highlighted various key issues, but a unifying theme was



the importance of treating mental health issues as we treat other health issues, which requires serving those with mental health and IDD needs in the proper setting and not in jails and prisons.

**Adult Track: Best Practices in Early-Intercept Jail Diversion**

During the adult-track session, John Pettila of the Meadows Mental Health Policy Institute gave an engaging presentation that clarified the confusing intersection of privacy laws and mental health and IDD issues in the criminal justice system. A panel of thirteen stakeholders from across various disciplines then participated in a nuanced discussion of best practices and barriers in early-intercept jail diversion.

**Regional Discussions: Champions for Change**

Judge John Specia, JCMH’s first Jurist in Residence, opened the second day with an energizing talk about being a champion for change in your community. The attendees then broke into regional groups to discuss how to improve courts’ responses to matters involving people with mental health and IDD needs. The discussion was centered around mapping local practices along the Sequential Intercept Model (SIM) and making plans specific to the community. Each group then shared their plans with the other attendees, which included many promising ideas for future collaboration, immediate action items, and long-term, systemic change.

**Conclusion**

The feedback from the Summit was brimming with enthusiasm and ideas. One participant noted that “[t]he Summit was a milestone moment for behavioral health and criminal justice. If awareness is the key to change, then, thanks to the Summit, we are well on the way to establishing a Judicial Behavioral approach that actually works, reduces suffering, and saves lives.” The JCMH is deeply grateful to all those who participated and made the Summit a successful partnership between the two highest courts in Texas to improve outcomes for those with mental health or IDD needs and, in turn, all Texans.



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## **Top Ten Takeaways from the Judicial Summit on Mental Health**

1. Mental health and IDD services start in the community.
2. Under certain circumstances, law enforcement must make a good-faith effort to divert a person with a mental health crisis away from jail.
3. Emergency detention is an option to address more intensive mental health needs.
4. Hospitals cannot detain without a warrant or an apprehension by peace officer without warrant (APOWW).
5. If there is reasonable cause, an assessment under CCP 16.22 is required by law to identify mental health and ID needs.
6. In the jails, LMHAs/LBHAs provide crisis services to incarcerated persons but not ongoing mental health services unless there is a contract with the county.
7. State law requires that agencies share information for purposes of continuity of care and services for “special needs offenders.”
8. Personal bonds under CCP 17.032 are useful and mandatory for non-violent persons with mental illness or ID.
9. Court-ordered mental health services are possible when a criminal case is pending for non-violent offenses.
10. Judges can make a difference with specialty courts and dockets, collaborative team meetings, and other best practices.



**EXPANDED**

**Top Ten Takeaways from the Judicial Summit on Mental Health**

**1. Mental health and IDD services start in the community.**

Robust community resources can provide a lifeline to individuals with mental health needs. Religious, service-based, and other philanthropic organizations also provide valuable outreach and resources. Each of Texas’ 39 LMHA/LBHAs is required to provide:

- crisis-response services for all individuals in the service area; and
- ongoing outpatient mental health services for individuals who meet diagnostic and need-based eligibility requirements.

Crisis response services include three services:

- a crisis screening;
- a crisis assessment; and
- a recommendation about the level of care required to resolve the crisis.

Local Mental Health Authorities/Local Behavioral Health Authorities (LMHA/LBHAs) conduct crisis response for both mental illness (MI) and intellectual disability (ID). A Local Intellectual and Developmental Disability Authority (LIDDA) serves as the single point of access to certain publicly funded services and supports for the residents within the LIDDA’s local service area. Services are mainly provided through waiver programs.

**Other Intercept 0 Best Practices:**

**Shelters and Food Banks:** Homelessness and hunger are significant barriers to being able to lead a healthy and productive life, regardless of mental health status. Shelters and food banks can serve as excellent resources both to combat factors that are often intertwined with mental illness.<sup>1</sup>

**Data Sharing:** Data sharing is critical at every SIM intercept. In the community services and support context, it is necessary for effectively coordinating services and treatment across resources.

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<sup>1</sup> The best practices in this report were developed by the National Center for State Courts in collaboration with the Arizona Supreme Court.



## 2. Under certain circumstances, law enforcement must make a good-faith effort to divert a person with a mental health crisis away from jail.

Every law enforcement agency must make a good-faith effort to divert a person (1) suffering a mental health crisis or (2) suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction. This provision applies if:

- a treatment center is available;
- diversion is reasonable;
- the offense is a non-violent misdemeanor; and
- the mental health or substance abuse issue is suspected to be the reason for the offense.

[Tex. Code Crim. Proc. art. 16.23\(a\)](#).

**When police must arrest or charge with a crime** - Arrest is almost always discretionary. The only instances in which it is mandatory are described in CCP art. 14.03(b), which states that a peace officer must arrest a person whom the officer has probable cause to believe has committed an offense under Texas Penal Code section 25.07 (violations of certain court orders or conditions of bond) in the presence of the officer. [Tex. Code Crim. Proc. art. 14.03\(b\)](#).

### Other Intercept 1 Best Practices:

**Crisis Intervention Training:** Crisis intervention training focuses on identifying signs of mental illness, de-escalating a situation that involves those signs, and connecting a person to treatment. Mental Health First Aid and Psychological First Aid Trainings are available through HHSC.

**Pre-Arrest/Pre-Booking Diversion:** Charging decisions that implicitly consider leveraging effective mental health response may result in diversion before arrest or booking. This is especially the case when dealing with low-level crimes and individuals with little to no criminal history or low risk of reoffending.

**Mobile Teams:** Mobile crisis teams are a law enforcement and mental health co-response to crisis situations in the community. Mobile teams may be housed within law enforcement or include team members from law enforcement and other mental health agencies.

**Stabilization Units:** Crisis stabilization units are facilities that seek to stabilize a person and enable community reintegration while offering supportive outpatient services. Stabilization units are less restrictive than a hospital and can serve as great resource for law enforcement to divert non-violent individuals.



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### **3. Emergency detention is an option to address more intensive mental health needs.**

Emergency detention (ED) can be an option to address mental health needs that are more intensive and require on-site treatment. While commitment can be voluntary, there are times when it may not be the case. In this situation, an ED can be initiated to ensure the individual gets evaluated to see if commitment is necessary for treatment.

- a. **There must be a substantial risk of serious harm unless the person is immediately restrained.**
- b. **The ED legal standard is reasonable cause**, which is a lesser burden than the clear-and-convincing standard required for civil commitment under Health and Safety Code Ch. 574. Some signs and symptoms may include:
  - Malnutrition
  - Poor hygiene arising to a level of dangerousness
  - An inability to administer necessary medications
  - Failure to provide for adequate shelter
  - Failure to maintain their own safety
  - Disorientation
  - Delusional thinking
  - Responding to visual and auditory hallucinations
  - Responding to an officer's questions with grunting noises
  - Soiling one's self regularly

**\*Note an officer's personal observations are not required.**





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## **4. Hospitals cannot detain without a warrant or an apprehension by peace officer without warrant (APOWW).**

Unless a warrant has been issued or a person has been transported by (1) an officer, who has filed a notification of detention or (2) a guardian, who filed notice with the court that granted guardianship, a facility has no legal right to hold an individual if the individual refuses a preliminary examination or treatment—for example, if a non-guardian family member or EMS has transported the person to the facility, the hospital has no authority to detain.

A guardian may not commit the person under the guardianship, but they may transport the person to obtain a “preliminary examination” which a physician will use to determine whether an application for an order for protective custody is appropriate. [Tex. Est. Code § 1151.053](#).

### **Hospitals are also bound by federal law.**

The federal Emergency Treatment and Active Labor Act (EMTALA) stipulates that the emergency condition—in this case a mental health one—must be stabilized before the patient can be discharged. Stabilization may need to include transfer to a behavioral health bed in a psychiatric hospital or a unit in a general hospital. The Emergency Room, therefore, is often stuck. They cannot violate EMTALA, they don’t want to violate a patient’s rights, and they need to find a placement that may be unavailable for a few days or up to a week. Often, the patient is maintained in the emergency room of the general hospital which is not equipped to treat, house, and manage those with mental illness.



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**5. If there is reasonable cause, an assessment under CCP 16.22 is required by law to identify mental health and ID needs.**

Using mental health and ID screeners at intake can identify new treatment needs (or even initial treatment needs) pending release on trial. Screening information can also be provided directly to the court to facilitate more appropriate and tailored pre-trial orders and in-court responses to individuals.

**a) What is a 16.22 assessment?**

A 16.22 assessment is a **collection of information regarding whether the defendant has a mental illness or ID. It is NOT** an “approved mental disabilities/suicide prevention screening instrument” under Texas Administrative Code, Title 37, Part 9, Chapter 273, Section 273.5, which must be completed by a jail employee for all inmates immediately upon intake. A 16.22 assessment is NOT a full clinical assessment.

- 16.22 assessment is NOT the mandatory jail screening
- A person can have MI or ID and still be competent under Article 46B

**b) Who may perform a 16.22 assessment?**

- LMHA
- LIDDA, or
- QMHE (Not an “expert” as that term is typically used)

**\*Note Article 16.22 does not limit when the magistrate may order an assessment.**

“Magistration” is not a statutorily defined term but is a term that is widely used in the criminal justice system. It refers to the event in which the magistrate performs the duties set forth in Texas Code of Criminal Procedure article 15.17 after the arrest of an individual. It is also referred to as an “initial appearance” and “15.17 warnings.” Magistration is **not** an arraignment. An arraignment occurs when formal charges are read to the defendant and the defendant enters a plea.

**c) What is the standard for ordering a 16.22 assessment?**

The magistrate must determine whether there is reasonable cause to believe that the person has MI or ID. Consider requesting the Texas Commission on Jail Standards (TCJS) mandatory jail screening form if it was not included with the 16.22 notice. *See* [Tex. Health & Safety Code 614.017\(a\)\(2\)](#) (requiring disclosure of such information for purposes of continuity of care and services). Note again that a specific diagnosis is not required.



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**d) What types of information can prompt a magistrate to order an assessment?**

- i. Notice from sheriff or jailer of possible MI or ID from the mandatory screening of inmates for suicide and MI and ID

The Texas Commission on Jail Standards requires that the TCJS-approved mental disabilities/suicide prevention screening instrument must be completed immediately for all inmates admitted. That screening is part of mental disabilities/suicide prevention plan that all sheriffs and operators must develop and implement to address various statutorily enumerated principles and procedures. *See* [37 Tex. Admin. Code § 273.5](#).

- ii. Mandatory Continuity of Care Query (CCQ)

With limited exceptions, every jail is required to conduct a CCQ check on each inmate upon intake into the jail. The CCQ is originated through the Department of Public Safety's Texas Law Enforcement Telecommunications System, which initiates a data exchange with the HHSC's Clinical Management for Behavioral Health Services system to determine if the inmate has previously received state mental healthcare. [37 Tex. Admin. Code § 273.5](#).

**\*Note that CCQ check does not include LIDDA or SSLC services.**

- iii. Mandatory prescription review

Texas Commission on Jail Standards requires that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody. [Tex. Gov't Code 511.009\(d\)](#); [37 Tex. Admin. Code § 273.2\(12\)](#).

- iv. Notice from another source

If the magistrate receives written or electronic notice of credible information that may establish reasonable cause to believe that a person brought before the magistrate has MI or ID, the magistrate must conduct proceedings under Article 16.22 or bond proceedings under Article 17.032, as appropriate. [Tex. Code Crim. Proc. art. 15.17\(a-1\)](#).

- v. When the magistrate observes behavior suggesting MI or ID

Although not expressly provided in the statute, the spirit of the statutory scheme suggests that the magistrate should order an assessment upon the magistrate's own observations of behavior that establishes reasonable cause to believe that a person has MI or ID, such as during magistration, probable cause hearing, or arraignment.

**\*Note that Article 16.22 suggests that the magistrate may determine whether to order an assessment at any time—during magistration, arraignment, or any other time.**



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**e) What to do with the assessment?**

**i.** When must the qualified professional submit the assessment to the magistrate?

Unless good cause is shown, after the magistrate orders the assessment, the qualified professional must submit the assessment to the magistrate:

- if the person is in jail: within 96 hours, or
- if the person has been released from custody: within 30 days.

[Tex. Code Crim. Proc. art. 16.22\(b\)](#).

**ii.** The magistrate must send copies

Regardless of whether the assessment indicates MI or ID, the magistrate must send copies of the assessment to:

- defense counsel;
- prosecutor; and
- the trial court of jurisdiction.<sup>2</sup>

[Tex. Code Crim. Proc. art. 16.22\(b-1\)](#).

**f) Class C Misdemeanors not required, but not prohibited**

The 85th Legislature passed two bills in 2017 amending this statute: one bill modified provisions of the statute by (1) adding municipal jailers and (2) limiting the notice requirement to cases involving Class B misdemeanors and higher. The other bill made no such modifications. Because statutory amendments must be harmonized when possible, the amendment that specifically modified these provisions should be given effect. *See* [Tex. Gov't Code § 311.025\(b\)](#). We note that the statute, even as amended, does not expressly prohibit assessment of persons charged with Class C misdemeanors.

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<sup>2</sup> If the case has not been filed when the magistrate receives the assessment, the magistrate must hold the assessment and send a copy to the trial court once the case is filed.



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**6. In the jails, LMHAs/LBHAs provide crisis services to incarcerated persons but not ongoing mental health services unless there is a contract with the county.**

It is a common misunderstanding that LMHA/LBHAs are required to provide mental health services to individuals in jail facilities. Some counties have contracted with their LMHA/LBHA to provide additional services, but if there is no contract, LMHA/LBHAs are only required to provide:

**a. Crisis Services**

- The LMHA/LBHA must have a crisis screening and response system in operation 24/7 that is available to individuals throughout its contracted service delivery area. The telephone system to access the crisis screening and response system must include a toll-free crisis hotline number. Calls to the crisis hotline are answered by a hotline staff member who is trained in mental health community services.
- When the crisis hotline is called, the crisis hotline staff member provides a crisis screening, and determines if the crisis situation requires deployment of the LMHA/LBHA Mobile Crisis Outreach Team (MCOT). If the crisis situation is determined to be emergent or urgent, at least one trained MCOT member must respond to the site of the crisis situation and conduct a crisis assessment. After the crisis assessment is conducted, the LMHA/LBHA will make a recommendation about the treatment necessary to resolve the crisis.

**b. 16.22 Assessments**

- LMHA/LBHAs must collect information regarding whether the defendant has a MI or ID and provide to the magistrate a written assessment of the information collected under CCP art. 16.22.

**c. 17.032 Recommendations**

- LMHA/LBHAs will consult with the magistrate to help determine if there are appropriate and available services for the defendant.

**\*Note that jails are responsible for medical, mental, and dental health care.** The owner/operator of each jail facility must also provide medical, mental, and dental services in accordance with the approved health services plan, which may include, but may not be limited to, the services of a licensed physician, professional and allied health personnel, hospital, or similar services. [37 Tex. Admin. Code § 273.1.](#)



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## 7. State law requires that agencies share information for purposes of continuity of care and services for “special needs offenders.”

Considerable confusion has surrounded the issue of sharing personal health information in proceedings involving persons who may have MI or ID. The following identifies some of the key state-law provisions governing that issue.

### a. Information regarding special needs offenders

State law requires that agencies share information for purposes of continuity of care and services for “special needs offenders,” which includes individuals:

- for whom criminal charges are pending or
- who, after conviction or adjudication, is in custody or under any form of criminal justice supervision.

Tex. Health & Safety Code § 614.017(a), (c)(2).

### b. What an agency is required to do

Specifically, an agency must:

- accept information relating to a special needs offender or a juvenile with a mental impairment that is sent to the agency *to serve the purposes of continuity of care and services* regardless of whether other state law makes that information confidential; and
- disclose information relating to a special needs offender or a juvenile with a mental impairment, including information about the offender's or juvenile's identity, needs, treatment, social, criminal, and vocational history, supervision status and compliance with conditions of supervision, and medical and mental health history, *if the disclosure serves the purposes of continuity of care and services.*

Tex. Health & Safety Code § 614.017(a).

### c. Agencies must safeguard confidentiality

An agency must manage confidential information accepted or disclosed under this section prudently to maintain, to the extent possible, the confidentiality of that information. A person commits an offense if the person releases or discloses confidential information obtained under this section for purposes other than continuity of care and services, except as authorized by other law or by the consent of the person to whom the information relates. [Tex. Health & Safety Code § 614.017\(d\), \(e\).](#)



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## **d. Agencies required to comply**

An “agency” includes any of the following entities and individuals, a person with an agency relationship, and a person who contracts with one of the following entities or individuals:

- (A) the Texas Department of Criminal Justice and the Correctional Managed Health Care Committee;
- (B) the Board of Pardons and Paroles;
- (C) the Department of State Health Services;
- (D) the Texas Juvenile Justice Department;
- (E) the Department of Assistive and Rehabilitative Services;
- (F) the Texas Education Agency;
- (G) the Commission on Jail Standards;
- (H) the Department of Aging and Disability Services;
- (I) the Texas School for the Blind and Visually Impaired;
- (J) community supervision and corrections departments and local juvenile probation;
- (K) personal bond pretrial release offices established under CCP Article 17.42;
- (L) local jails regulated by the Commission on Jail Standards;
- (M) a municipal or county health department;
- (N) a hospital district;
- (O) a judge of this state with jurisdiction over juvenile or criminal cases;
- (P) an attorney who is appointed or retained to represent a special needs offender or a juvenile with a mental impairment;
- (Q) the Health and Human Services Commission;
- (R) the Department of Information Resources;
- (S) the Bureau of Identification and Records of the Department of Public Safety, for the sole purpose of providing real-time, contemporaneous identification of individuals in the Department of State Health Services client data base; and
- (T) the Department of Family and Protective Services.

[Tex. Health & Safety Code § 614.017\(c\)\(1\)](#).

## **e. Exempt from the Texas Medical Records Privacy Act (TMRPA)**

TMRPA, the state law governing privacy of medical records, expressly excludes an agency described by Section 614.017 (set forth above) with respect to the disclosure, receipt, transfer, or exchange of medical and health information and records relating to individuals in the custody of an agency or in community supervision.<sup>3</sup> [Tex. Health & Safety Code § 181.057](#).

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<sup>3</sup> Note that pre-booking diversion programs might not be included in this exemption if the individual is not in the custody of an agency or in community supervision.



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## 8. Personal bonds under CCP 17.032 are useful and mandatory for non-violent persons with mental illness or intellectual disability.

### a. When is a personal bond required?

Unless good cause is shown, the magistrate must release the person on personal bond if the person is not charged with and has not been previously convicted of certain violent offenses:

**\*Note** the Texas Code of Criminal Procedure defines a “personal bond” as a bail bond with no sureties. [Tex. Code Crim. Proc. art. 17.04](#). Texas courts have recognized that although “personal recognizance bond” is a commonly used term, the relevant statutes use the term “personal bond.”

**\*Also note** that personal bonds are commonly referred to as “**mental health bonds.**”

### b. What must the magistrate consider when setting bail?

The magistrate must consider:

- all the circumstances;
- a pretrial risk assessment, if applicable; and
- any other credible information provided by defense counsel or the prosecutor.

[Tex. Code Crim. Proc. art. 17.032\(b\)\(5\)](#).

### c. When must the magistrate order treatment as a condition of bond?

Unless good cause is shown, if the above criteria are met for setting a personal bond under 17.032, the magistrate must require inpatient or outpatient treatment as a condition of bond as recommended by the qualified professional if:

- the person’s MI or ID is chronic; or
- the person’s ability to function independently will continue to deteriorate if not treated.

[Tex. Code Crim. Proc. art. 17.032\(c\)](#).





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## d. What other conditions may be imposed?

The magistrate may impose other conditions to ensure:

- the person's appearance; and
- the safety of the victim and the community.

Tex. Code Crim. Proc. art. 17.032(d).

## e. Enforcing bond conditions

Some examples of strategies for enforcing bond conditions include:

- requesting the appropriate personnel to contact the person to discuss noncompliance, such as the:
  - LMHA, LIDDA, or other mental health or IDD provider,
  - case manager, or
  - peace officer;
- ordering the person to appear in court to discuss noncompliance;
- revoking bond and ordering treatment to be provided in a place other than jail;
- revoking bond and ordering treatment to be provided in jail; or
- ordering an emergency detention under Health and Safety Code chapter 573.

## Other Intercept Two Best Practices

**Prescription Continuity:** Prescription continuity is critical to keeping individual's mental and behavioral health from deteriorating. Intake officials should screen individuals to identify and coordinate existing prescriptions upon entry into detention.

**High-Utilizer Responses:** High system utilizers place an out-sized strain on system resources. Therefore, targeting and developing responses tailored for high-system users can not only stop a vicious cycle for individuals and affected families, it can lead to significant resource savings across systems.

**Service Co-Location:** Service co-location eases the burden of seeking and providing mental health treatment for detained individuals. Even for individuals out on their own recognizance, service co-location provides an answer to transportation and resource barriers that mental health-involved individuals often experience. Co-locating services also increases the likelihood of participation and service retention rates.



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## 9. Court-ordered mental health services are possible when a criminal case is pending for non-violent offenses.

Proceedings for court-ordered mental health services may be initiated even when criminal charges are pending only if the proposed patient is not charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person. *See* [Tex. Health & Safety Code §§ 574.034\(h\), 574.035\(i\)](#).

### a. Who may initiate proceedings

A county or district attorney or other adult may file a sworn written application for court-ordered mental health services. [Tex. Health & Safety Code § 574.001\(a\)](#). Only the district/county attorney may file an application without a CME. [Tex. Health & Safety Code § 574.001\(a\), 574.011](#).

### b. Jurisdiction - Generally only court with probate jurisdiction

A proceeding for court-ordered mental health services may be conducted only in a court that has the jurisdiction of a probate court to hear mental illness matters. [Tex. Health & Safety Code § 574.008\(a\)](#).

### c. Release on personal bond is necessary

As a practical matter, the magistrate must release a person from custody on a personal bond before a court with probate jurisdiction may order mental health services, as that court may not order the release or transfer to mental health facility of a person who is incarcerated for participation in mental health services. However, a person subject to arrest could be held in jail—and receive mental health services—during the pendency of the hearing on the civil matter **if** the person could not be released on bond and treated safely in the community.

#### **Exception: Magistrate may order services as condition of mental health bond**

If the criteria in CCP 17.032(c) are met, the magistrate must require, as a condition of release on personal bond, the person to submit to outpatient or inpatient mental health treatment or intellectual disability services as recommended by a qualified professional. Such a condition, however, is contingent on the magistrate's coordination with the LMHA/LIDDA.

#### **Exception: Criminal court may order services after a finding of incompetency under CCP 46B if charges remain pending.**

Because, with limited exceptions, only a court with probate jurisdiction may hear proceedings for court-ordered mental health services, collaboration between those courts and courts with criminal-matter jurisdiction is critical to ensuring that civil commitment may effectively serve as a diversionary tool.



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## 10. Judges can make a difference with specialty courts and dockets, collaborative team meetings, and other best practices.

**Mental Health Courts:** Mental health courts are specialized dockets for individuals with mental illness. These dockets embrace a non-adversarial, problem-solving approach to qualifying cases. Mental health courts provide a greater focus on treatment and individualized case plans than traditional criminal dockets. While mental health courts are seemingly the most appropriate fit for individuals with mental illness, other specialized dockets such as Veterans court or co-occurring treatment courts (integrating substance use disorder and mental health treatment) should also be considered.

**Caseflow Management:** Following caseflow management best practices keeps cases from languishing in the justice system. Strong continuance policies and meaningful hearing/trial dates help maintain case momentum. This is particularly important in cases with mental health-involved individuals, which might require additional hearings or filings around competency, rehabilitation, and treatment. In the criminal context, case management should also factor in important concerns like speedy trial.

**Case Management Teams:** Case management teams with local agencies help provide a holistic response to mental and behavioral health needs. Specialized staff can ensure services across domains (housing, employment, life skills, etc.) that consider and respond to the full spectrum of an individual's needs. Team members also ensure that traditional information silos are broken down to best serve their client.

**Diversion/Alternative Sentencing:** Post-trial diversion and alternative sentencing options provide opportunities to direct individuals to rehabilitation-focused punishments that balance the interests of justice. Most importantly, it avoids incarceration when an individual meets certain sentencing conditions. Often involving suspended sentences and/or probation, alternative sentencing can be as creative and flexible as a judge and community resources will allow. Examples of alternative sentencing include community service, assisted outpatient treatment, and required participation in issue-specific classes (e.g., anger management or life skills).

**Court Liaison:** Court liaisons provide a vital link to mental and behavioral health service providers during the life of criminal cases. Liaisons are typically clinically-trained and connected with a provider or agency. They are trained to conduct assessments and adept at providing program and treatment recommendations.