

# TEXAS COMMISSION ON JAIL STANDARDS

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## TECHNICAL ASSISTANCE MEMORANDUM

**TO:** All Sheriffs and Jail Administrators  
**FROM:** Brandon Wood, Executive Director  
**REGARDING:** Local Mental Health Authorities and County Jails  
**DATE:** July 19, 2019

### **Responsibilities of Local Mental Health Authorities (LMHAs)**

The Health and Human Services Commission (HHSC) contracts with 39 local mental health authorities (LMHAs) that provide mental health services in every county in Texas. LMHAs are required by HHSC to provide mental health crisis response services if requested by a jail in the LMHA's specific geographic area for inmates who are experiencing a mental health crisis. This request typically occurs when jail personnel call the crisis hotline for the LMHA in their County.

Individuals experiencing a mental health crisis<sup>1</sup> are or believe they are:

1. Presenting an immediate danger to self or others; or
2. At risk of serious deterioration of mental or physical health.

Mental health crisis response services<sup>2</sup> include:

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

In addition to mental health crisis response services, LMHAs are required to provide written reports with information about defendants suspected of having a mental illness or intellectual disability if ordered by the judiciary.<sup>3</sup>

### **Responsibilities of County Jails**

Texas Administrative Code (TAC), Title 37, Part 9, relating to Texas Commission on Jail Standards, specifically, §273.21, relating to Health Services, specifies the following "The owner/operator of each facility shall provide medical, mental, and dental services in accordance with the approved health services plan. These services may include, but shall not be limited to, the services of a licensed physician, professional and allied health personnel, hospital, or similar services." Rule 273.2 indicates that each facility shall have a written

<sup>1</sup> A crisis is defined by 25 TAC, Chapter 412, Subchapter G, specifically, subsection 412.303(13)

<sup>2</sup> Crisis services include those captured in 25 TAC, Chapter 412, Subchapter G, specifically subsection 412.321.

<sup>3</sup> See Code of Criminal Procedure, Chapter 16, Art. 16.22 and CCP, Chapter 17, relating to bail and to post-release treatment services coordinated with jails and courts. Updated per changes in law made by HB 601 (86<sup>th</sup> Regular Session).

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plan, approved by the Commission, for inmate medical, mental, and dental services and describes the information that must be included in the Health Services Plan. As reflected in the Minimum Jail Standards, it is the county jail's responsibility to provide medical, mental, and dental services.

Jails do not pay for mental health crisis response services. HHSC provides funding to LMHAs for the purpose of providing mental health crisis response services, as defined above. However, jails may purchase additional services through contracts with the LMHA in their jurisdiction. They may also obtain and pay for other services by signing a Memorandum of Understanding with an LMHA directly

Some jails currently contract with the LMHA in their area and pay for additional services, while jails without a contract with the LMHA in their area receive mental health crisis response services only. As a result of this local decision making, there is variation in the level of services jails receive from LMHAs.

If your jail or your county has a contract with an LMHA, the Commission recommends that you retain a copy and ensure you are familiar with what services and medications are provided by the LMHA in your area.

To locate and/or contact the LMHA in your area visit the following website:  
<https://dshs.texas.gov/mhsa/lmha-list/>.

## Legislative Update

Recent changes made by the 86<sup>th</sup> Legislature to the Code of Criminal Procedure, Article 16.22 are worth noting. Previously, a magistrate was required to order a qualified mental health expert or intellectual disability expert to assess information collected about an inmate suspected of having mental illness or intellectual disability. HB 601 modifies existing law and now requires the expert ordered by a magistrate to interview inmates suspected of having a mental illness or intellectual disability if the inmate has not previously been interviewed on or after the date the inmate was arrested for the offense for which the inmate is in custody. The interview may be conducted either in person in the jail, by telephone, by telemedicine, or by telehealth service. Commissioner's courts are also now required to reimburse the expert for the cost of performing the interview in accordance with the established fee schedule. HB 601 also requires jails to include any mental health records, mental health screening reports when transferring an inmate to the Department of Criminal Justice (TDCJ). Additional information will be provided as implementation of HB 601 unfolds.

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"The Commission on Jail Standards welcomes all suggestions and will promptly respond to all complaints directed against the agency or any facilities under its purview".

*To empower local government to provide safe, secure and suitable local jail facilities through proper rules and procedures while promoting innovative programs and ideas*