

JUDGES HELPING JUDGES AND LAWYERS: Texas Lawyers Judicial Initiative Subcommittee

What's A Judge To Do?

The behavior of a lawyer who has practiced in your court for years has clearly changed and now you think that the problem must be alcohol, drugs, depression or something serious. What should you do? The short answer is to make confidential contact with the Texas Lawyers' Assistance Program (TLAP) through its Judges' hotline: 800-219-6474.

TLAP has been providing confidential, respectful and discreet assistance to judges, lawyers and law students since 1989. As the approved peer assistance program for lawyers, all communications are confidential by virtue of the protections afforded by the Texas Health and Safety Code, Chapter 467, et. seq. TLAP staffs two hotlines – one for judges (800-219-6474) and one for lawyers (800-343-8527). A judge can call about him/her self, another judge or a lawyer in the community about whom the judge is concerned. TLAP receives over 1,000 calls each year and provides assistance to individuals who are challenged by issues of alcohol, drugs, substance abuse, anxiety, depression, stress, burnout, aging and the myriad mental health issues affecting legal professionals in the 21st century. TLAP staff, all three of whom are lawyers, will work with the caller to help evaluate the situation, offer concrete suggestions and solutions and make a plan to help.

Why Should A Judge Call TLAP?

Confidential assistance and immunity protections:

All communications are confidential by law as set out in the Texas Health and Safety Code, Chapter 467, et. seq. The confidentiality protections are available to the lawyer or judge seeking help and to the judge making a call of concern or referral. Additionally, a report in good faith to TLAP gives the judge statutory immunity from suit. Reports to TLAP are not discoverable. TLAP does not disclose the name of the reporting person without express permission. Confidentiality is absolute.

One on one contact and an offer of assistance:

After a judge contacts TLAP, a staff member or trained TLAP volunteer (either judge or lawyer) who is also bound by the confidentiality, will contact and seek to meet with the impaired person and offer assistance. Usually, a judge volunteer will contact a judge and a lawyer volunteer will contact a lawyer. These contacts and conversations are also confidential. Not every judge or lawyer acts on help offered, but many do. Helping colleagues on the bench and members of the Bar is the right thing to do.

Fulfill a duty to report:

Currently, *The Texas Code of Judicial Conduct*, Canon 3 (D) contains no specific duty to report issues of impairment of a judge or another lawyer. However, *The ABA Model Code of Judicial Conduct* was amended in 2007 to include Rules 2.14 and 2.15 relating to a judge's

duty to report impaired lawyers and judges, making it clear that some corrective action with regards to a judge's or lawyer's impairment is warranted. Although this is only a model rule so far, we believe that this is a harbinger of things to come in Texas.

The Texas Disciplinary Rules of Professional Conduct does contain a specific duty to report. In certain cases, a judge or lawyer can fulfill this duty to report by contacting TLAP – as provided thru TDRPC Rule 8.03(c): If you have a duty to report misconduct and have knowledge or suspect the lawyer or judge is impaired by alcohol or drugs or other mental illness, Rule 8.03(c) allows you to call TLAP to fulfill this ethical obligation.

From A Judge's Perspective: Texas Judges speak about what happens when a judge calls TLAP.

Calling TLAP about a lawyer:

"I recently observed a lawyer practicing in my court exhibiting some erratic behavior. I contacted TLAP and was given a full range of options to consider, including resources that are available. TLAP connected me with a TLAP volunteer lawyer willing to talk to the lawyer appearing in my court. Counseling and treatment options were made. Some weeks later I approached the lawyer to express care and concern, and she shared some issues in her life. She was grateful for the help she had gotten and is doing much better now."

"It happens – there before you is an impaired lawyer, and although you may not be certain what the problem is, something is definitely wrong and you need to know your options. Depending on your comfort level, you can meet with the lawyer privately and gently express your concern. If you desire personal contact but don't want to pry into their circumstances, you can encourage the lawyer to call TLAP. Or you can call TLAP yourself, remaining anonymous if you want. By working through TLAP to get help, statutory immunity applies. Or you can even find another judge or lawyer to meet with them or call TLAP. Under the Model Judicial Conduct Code, taking no action is not an option."

Calling TLAP about another Judge:

"My judicial colleague did not appear healthy and was drinking heavily. His behavior had deteriorated to intimidation and rudeness. I felt that the Judge might be suffering from depression or substance abuse and needed help. I called TLAP which had resources to help him. They arranged for a trained volunteer Judge to meet with him to offer crisis counseling, referrals to professionals, peer assistance, and support groups. Through TLAP, judges can get the help they need, and all services are confidential."

"I am a sitting District Judge and a recovering alcoholic. I received a confidential call from TLAP about a judge who thought he had a drinking problem. I called on him and shared my story of recovery. That was 14 years ago and today he is a sober and respected member of society."

"A visiting judge was acting erratically on the bench. A judge in the neighboring court brought him to her office. After contacts with TLAP, the disabled judge obtained treatment. He is now in recovery and returned to the bench."

“A Judge charged with DWI was counseled by TLAP and volunteers. Convinced that he could ‘handle’ the problem alone he refused assistance. A year later, after continued adverse events, he was removed from office.”

“A Judge who had continuing personal problems with alcohol and was diagnosed as suffering from depression, obtained treatment as a result of the example of a colleague who was a judge volunteer for TLAP. Fifteen years later, she retired from the bench as a valuable and respected judge.”

It’s a National Trend: TLAP staff answers the ABA CoLAP’s National Judges Helpline.

TLAP staff volunteers to answer the **National Judges’ Assistance Helpline (800-219-6474)**, a service of the American Bar Association and the ABA Commission on Lawyer Assistance Programs Judicial Assistance Initiative.

Judges throughout the United States and Canada, who need assistance because of alcoholism, substance abuse, addiction or mental health issues, may call the confidential helpline and be put in touch with other volunteer judges located elsewhere throughout the US and Canada. These volunteer judges, who are in recovery from either substance abuse or depression, have volunteered to be a personal resource to other judges and are uniquely positioned and prepared to confidentially share their experiences, strengths and hope with their colleagues in crisis.

Final Thoughts: Judges, Stay Healthy!

By staying healthy, a judge can be of greater service to the profession, the public as well as to family and friends. Throughout the past year, TLAP has asked Texas judges to share their wisdom on the subject of “mental health.” Here are some specific gems from the collected comments:

“The term ‘mental health’ refers to your general psychological well-being. This includes the quality of your relationships with others, the way you perceive yourself and your ability to manage your emotions and deal with difficulties. It is not the absence of problems but the presence of positive characteristics that help you deal with difficulties when they arise.”

“People with “good” mental health have characteristics such as the ability to laugh and have fun, the ability to bounce back from adversity, flexibility to learn new things, self-confidence and self-esteem and a balance between work and private life. In order to maintain or strengthen your mental health, it’s important to pay attention to your own needs and feelings. That sounds simplistic, but many judges spend so much time focused on the issues of others, they ignore their own needs.”

“There are two particular areas of life that are crucial to maintaining mental health, physical health and supportive friendships:

1. Get up and move. A recent study found that people who sit more than six hours a day are 40% more likely to die within 15 years than someone who sits less than

three hours a day.⁽¹⁾ This is not good news for judges. Exercise will counteract this to a degree and increase endorphins, which make us feel better. You don't have to take up yoga, rock climbing or skydiving. A 20-minute walk will do. Stake out your exercise time and be selfish about it.

2. Stay connected with friends. Sometimes this is easier said than done, especially during a long trial or time when you have a monster docket. Judges can get in a rut of seeing only court-house colleagues (who are often not the same people with whom one would want to discuss personal stress). Facebook and other social media are a great way to reconnect with old friends and stay connected with current ones. This facilitates a quick, virtual interaction at those times when you can't see someone in person or spend time catching up on the phone. This is not just for college students and it's easy to do. Many judges are already setting up pages for campaigns, but you can also establish a personal, friends-only page."

And lastly but not least: "Judges! "Today is the day to follow these suggestions to help yourself and others in need in the legal community!"

⁽¹⁾See <http://mashable.com/2011/05/09/sitting-down-infographic/>