MENTAL COMPETENCY CONSEQUENCES

Project Summary

In October 2021, the number of people found mentally incompetent to stand trial and waiting in Texas jails for restoration treatment at a state hospital hit a new record: 1,838. A state advisory committee admits specific data on individuals waiting could help reduce that backlog, but KXAN discovered many critical details are not tracked. Without that data, the state acknowledges the consequences of the growing waitlist are largely unknown – including when people die waiting. Our research found data on this topic is often hidden or unreliable – a discovery sparking promise for change from state leaders.

This project is supported by the USC Annenberg Center for Health Journalism. Following two years of reporting on mental competency challenges in Texas jails, our KXAN investigators were chosen to continue their research, participate in the center's National Fellowship and were awarded a grant from the Dennis A. Hunt Health Journalism Fund. The fellowship is designed for journalists who want to do groundbreaking reporting on health disparities. We spent six months working on the resulting "Mental Competency Consequences" project.

INVESTIGATIVE METHOD & CHALLENGES

To find just how spotty the state's records are, we endeavored to build a portion of the waitlist database ourselves. Since identities on the waitlist are secret due to privacy laws, we had to find a backdoor way to obtain the information – the record keepers of the courts: district clerks. When judges order incompetent people to be sent to a state hospital for restoration, those orders are public court documents. District clerks could provide some data showing each time that type of order was issued. Unfortunately, Texas' district clerks do not have a uniform method for keeping records.

The data we were able to obtain varied from county to county, so we had to fill in the blanks – thousands of them – to analyze the information. With district clerk data in hand, we turned to custodial death records compiled by the Texas Justice Initiative, a nonprofit that aggregates and provides criminal justice information to the public for free. We merged those two datasets and found matches: individuals found incompetent to stand trial who also died in custody.

In Texas' five largest counties, we discovered at least 12 deaths of individuals on the waitlist since 2015. Due to time and resource limitations, we analyzed only those counties, but Texas has 254 counties and more than 37,000 people housed in jails pretrial and charged with felonies, according to the Texas Commission on Jail Standards. The number of deaths is likely much greater.

In our examination of shortfalls in oversight, we discovered the race and ethnicity data the Texas Health and Human Services Commission (HHSC) receives from law enforcement and the courts are not uniformly collected and may not be accurate, which could skew counts of Hispanic and white populations. As we looked through Dallas County, for example, we found no court records that identified individuals as Hispanic, yet dozens of individuals found incompetent in that county had

common Hispanic first and last names. We found further inconsistencies between sheriff's offices. In Travis County, a spokesperson for the sheriff's office said when a person is booked, they use the exact race and ethnicity recorded by the arresting officer, and the choices are "Alaska Native/American Indian, Asian/Pacific Islander, Black, Hispanic/Latino or White." But the Bexar County Sheriff's Office, for instance, has a different set of options in its computer booking system for recording race, including "Asian, Black, Chinese, Indian, Japanese, Latin, Other, Unknown, White." When taking into account the differences in recording race and ethnicity between county law enforcement and courts, it is not clear how reliable HHSC's waitlist data can be.

Analyzing the socioeconomic status of individuals on the waitlist was also tough, but we knew from interviews that income and housing have a correlation with whether people achieve long-term mental health improvement. Since the state didn't have a county-by-county breakdown of that information, we created a dataset ourselves. To do that, we identified and counted individuals who could not afford an attorney and were appointed one by the court. We individually searched more than 2,230 cases in Harris, Bexar and Dallas Counties to find which incompetent individuals were appointed an attorney. Travis County provided all necessary data, and we were able to merge it without having to search individual cases for additional details.

We found the percentage of people experiencing homelessness on the waitlist in Harris and Travis Counties by using defendant addresses listed in district clerk data. People experiencing homelessness were labeled as "homeless" or "transient" or used a homeless shelter for their address. The district clerks in Bexar and Dallas counties did not provide address information, so we couldn't calculate homeless statistics for those counties.

INNOVATION & IMPACT

This multi-platform investigative project launched in early December 2021 with a main page, including a longform article, video docuseries and rolling data components. We also provided featured links to breakout stories including solutions surrounding this topic, an inside look at how we created the project, interactive data elements and accompanying video vignettes. Additionally, we produced digital-first engagement events and a half-hour special edition of our weekly political program, State of Texas, focused solely on this topic.

Following our reporting, the Joint Committee on Access and Forensic Services – the HHSC panel advising the mental competency waitlist for the state – began tracking and publicly posting the race and ethnicity of individuals on the waitlist in early 2022 and will begin discussing how to track how homelessness related to the waitlist in the future. Specific members have also told our team they plan to push for tracking deaths on the waitlist as soon as possible, and the new chair of the committee suggested legislation may be needed to improve reporting statewide.

In its first meeting after our investigation, the committee noted the waitlist numbers had continued to climb to 2,127 and nearly a third of state hospital beds were offline largely due staffing shortages and the COVID-19 pandemic. The committee called it an "emergency" and even discussed calling on the Texas governor to activate the National Guard for help. HHSC also announced it would soon offer hiring bonuses up to $5,000 for workers to increase the staff numbers.

PROJECT FEEDBACK

The Texas Judicial Commission on Mental Health – which is the main player in the statewide "Eliminate the Wait" solution we featured – has widely shared the project. And the Downtown Austin Community Court – which was featured in another of our solutions breakout stories – reached out to commend our efforts and say it has since seen a heightened awareness of its program benefiting those in the community experiencing homelessness.

The project has been shared and given very positive feedback from several other entities – including the new chair of the state committee overseeing the waitlist – and outlets like the National Alliance on Mental Illness, the Hogg Foundation for Mental Health, the University of Texas' LBJ School of Public Affairs and Texas Public Radio. Families featured in our project and other mental health advocates have overwhelmingly praised our reporting for its "compassion and care" and for "shedding light on the dark subject of mental competency," calling the stories "heart-wrenching" and urging leaders to take action.

Project Links
on Next Page

MENTAL COMPETENCY CONSEQUENCES

Supplemental Materials

MAIN PROJECT
http://mentalcompetencyconsequences.com/

BREAKOUT STORIES

How Austin low-level crime court helps 'frequent utilizers' experiencing homelessness
https://bit.ly/3GJIusE

Wrong races, hidden names among data challenges our team faced with jail mental health project
https://bit.ly/3oY64Mj

Jail waitlist for mental health help hits new record. This plan proposes a statewide fix.
https://bit.ly/31SUdXb

UPDATE: State hospital staffing 'emergency' looms as record 2,100 wait in jail for treatment
https://bit.ly/3IHe0Z7

ADDITIONAL CONTENT

"State of Texas" Statewide Political Program
https://vimeo.com/655510318

"USC Annenberg Center for Health Journalism" Fellowship
https://bit.ly/3ythZov

"Texas Public Radio" Feature
https://bit.ly/3DYu9H0

"KXAN Live" Reporter Roundtable
https://bit.ly/3qiC39x

PROMOTIONAL ITEMS

Digital Overview
https://vimeo.com/654180895

Project Promo
https://vimeo.com/653080443

Digital Teaser
https://vimeo.com/655130128