

# ELIMINATE the WAIT

## The Texas Action Plan for Rightsizing Competency Restoration Services

The competency to stand trial process is designed to protect the rights of people who do not understand the charges against them and are unable to assist in their own defense. Like other states across the U.S., Texas faces a growing crisis in the number of people waiting in county jails for inpatient competency restoration services. Not only has the cost increased, overburdened, and delayed the process for state agencies and county jails; it is taking a significant toll on the health and wellbeing of people waiting in jails for services. Also, resources at the disposal of the behavioral health and justice professionals serving our communities are becoming scarce.

**MORE THAN 1700 PEOPLE  
ARE CURRENTLY ON TEXAS'  
FORENSIC WAITLIST**



**70% STATE HOSPITAL  
BEDS IN TEXAS  
ARE CURRENTLY  
UTILIZED BY THE  
FORENSIC POPULATION**

**OVER THE PAST 20 YEARS,  
TEXAS HAS SEEN A 38% INCREASE  
IN RATES OF PEOPLE FOUND  
INCOMPETENT TO STAND TRIAL**



It is time to right size competency restoration services for Texans by taking a comprehensive and integrated approach to address this challenge. The Judicial Commission for Mental Health and Health and Human Services Commission present a call to action to join in on a collaborative effort to change the way Texas serves people at the intersection of mental health and the criminal justice system. We all have a role to play to ELIMINATE THE WAIT.

### THE PROBLEMS

Too often, people with mental illnesses and/or intellectual or developmental disabilities are arrested when diversion is appropriate and possible. Per Tex. Code Crim. Proc. Art.16.23(a), officers shall 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 law enforcement agency's jurisdiction.[1]

Many times, orders for competency evaluations are attributable to a well-intended, but inaccurate understanding of competency restoration services (CRS). Some view competency restoration as a method for connecting individuals to mental health treatment. The reality, however, is that CRS are narrowly focused on stabilization, symptom management, and required legal education. This is not the same as providing access to a fully developed treatment plan and services with the goal of long-term recovery and a positive place in the community.

There are inefficiencies and delays in the evaluation and restoration of individuals. The time from when incompetency is raised to the final disposition of the criminal case can take months to over a year, in part, due to inefficiencies in case flow management, communications between parties, and scheduling. In some cases, an individual who is restored at a state hospital and returned to jail may experience deterioration of their mental health during the wait for a hearing on competency.

### THE SOLUTIONS

**Build a State Roadmap to Eliminating the Wait.** The Texas JCMH and the HHSC are launching the Eliminate the Wait Initiative to provide an actionable roadmap to reducing- and eliminating- the waitlist for inpatient competency restoration services.

**Develop Tailored Resources and Technical Assistance.** Building off documented evidence-based strategies, the Texas JCMH and the HHSC are working together to develop new trainings and educational materials focusing on opportunities for diversion to treatment at all points in the criminal justice system for judicial officials, jail staff, local mental health authorities, people who may experience Incompetency to Stand Trial firsthand, and members of the public.

**Enhance Accountability.** Millions of taxpayer dollars and thousands of public safety hours are spent each year on costs and services related to competency restoration—from arrest to inmate housing, through court proceedings and inpatient state hospital stays, and finally, to disposition. Eliminating the Wait takes accountability to public safety and fiscal responsibility. Through pilot programs, resources, and research, the Texas JCMH and the HHSC are contributing to our understanding of the public safety and fiscal implications of reducing- and eliminating the wait.

[1] THE FACTORS IN TEX. CODE CRIM. PROC. ART. 16.23(A)(1) THROUGH (4) MUST ALSO BE MET. CERTAIN OFFENSES ARE NOT ELIGIBLE PURSUANT TO TEX. CODE CRIM. PROC. ART. 16.23(B).