

Texas Judicial Commission on Mental Health 2024 Annual Summit

Mental Health is for Everyone

Dr. Carol Nati

MD, MS, DLFAPA, Chief Medical Officer for: MHMR of Tarrant County, Pecan Valley Centers and Helen Farabee Center

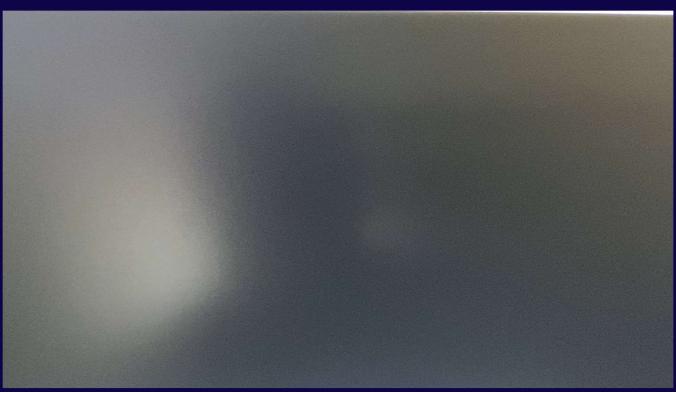
Judge Brent A. Carr (Ret)

Texas Judicial Commission on Mental Health, Specialty Court Advisory Council, Tarrant County Mental Health Court (2003)

The Greatest of All Time



Simone Biles Pulls Out of Team Competition 2020 Olympics





Simone Biles Discusses Her Feelings About Dropping Out of 2020 Team Competition





Simone Wins 6th Olympic Gold at 2024 Olympics The Greatest of All Time





Mental Health Is for Everyone

Learning Objectives

- 1. Discuss mental health and substance abuse issues among the judiciary, attorneys and support staff,
- 2. Provide resources for addressing impairment in judges, attorneys and staff,
- 3. Identify common mental illnesses and intellectual disabilities among defendants and litigants in the justice system,

^{*}Although most of the presentation will specifically focus on judges, lawyers and staff, the same concerns apply to defendants and litigants and there will be some specific information regarding them as well.

Judges and Lawyers Fiscal 2023

Judges County Level +: 1090*

Appellate: 98

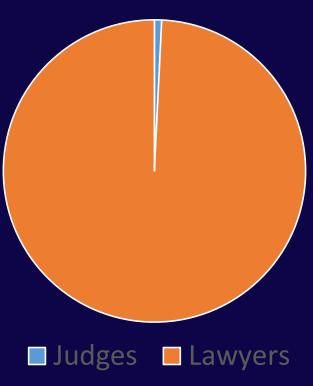
• District: 496

Statutory County: 261

• Probate: 22

Associates & Magistrates: 183*

Lawyers: 113,771



^{*}Approximate

Judges Texas Code of Judicial Conduct



JUDICIAL CONDUCT AND ETHICS

SIXTH EDITION

CHARLES GARDNER GEYH
JAMES J. ALFINI
JAMES SAMPLE



Texas Code of Judicial Conduct: Canon 3D(1) Duty Re Other Judges

- A Judge
- Who Receives Information
- Clearly Establishes
- Another Judge
- Has Committed
- A Violation of Code
- Should Take Appropriate Action

- A Judge
- Who has Knowledge
- Another Judge
- Has Committed
- Violation of Code that
- Raises a Substantial Question of
- Fitness for Office
- Shall
 - Inform SCJC, or
 - Take Other Appropriate Action

Judges Duty Re Other Judges Texas State Commission on Judicial Conduct

In the past ten years the Executive Director of the Commission on Judicial Conduct, Jacqueline Habersham, can recall only two cases involving a mental health disability as the primary concern:

- Both involved dementia,
- Both were initiated by family and friends close to the judge in question,
- Both were resolved with the resignation of the judge.

Texas Code of Judicial Conduct: Canon 3D(2) Duty Re Lawyers

- A Judge
- Receives information
- Clearly establishes
- A lawyer
- Committed a violation
- Tx Rules of Professional Conduct
- **Shall** take appropriate action

- A Judge
- Has Knowledge
- A lawyer
- Committed a violation
- Tx Rules of Professional Conduct
- Raises substantial question re the Lawyer's honesty, trustworthiness or fitness as a lawyer
- Shall:
 - Inform General Council SBOT, or
 - Take other appropriate action

Judges Duty Re Lawyers

Texas Code of Judicial Conduct

MUNICIPAL COURT JUDGE CJC NO. 02-0676-MU AMENDED PUBLIC REPRIMAND.

Judge failed to report law partners to State Bar or take appropriate action when he knew they were engaged in illegal activity.

As a minimum, this opinion suggests that in certain circumstances, doing nothing does not constitute "take other appropriate action."

Good News

- Leaders
- Engaging
- Self Confident
- Set Priorities
- Resilient

- Image Conscience
- Intelligent
- Knowledgeable
- Thoughtful
- Resourceful

Judges Are Not Immune

- Stress
- Anxiety
- Depression
- Alcohol Abuse
- Substance Abuse







Mental Illness

 Mental illnesses are <u>health conditions</u> involving changes in emotion, thinking or behavior (or a combination of these). Mental illnesses are associated with distress and/or problems functioning in social, work or family activities.

 Mental illnesses are biologically based brain disorders. They cannot be overcome through "will power" and are not related to a person's

"character or intelligence."



Prevalence of Any Mental Illness (AMI)

National Institute of Health 2021

- <u>AMI</u> is defined as a mental. Behavioral, or emotional disorder. <u>AMI</u> can vary in impact, ranging from no impairment to mild, moderate, and even severe impairment.
- In 2021, there were an estimated 57.8 million adults aged 18 or older in the United States with <u>AMI</u>. This number represented 22.8% of all U.S. adults.
- In 2021, among the 57.8 million adults with **AMI**, 26.5 million (47.2%) received mental health services in the past year.

https://www.nimh.nih.gov/health/statistics/mental-illness

Prevalence of Serious Mental Illness (SMI)

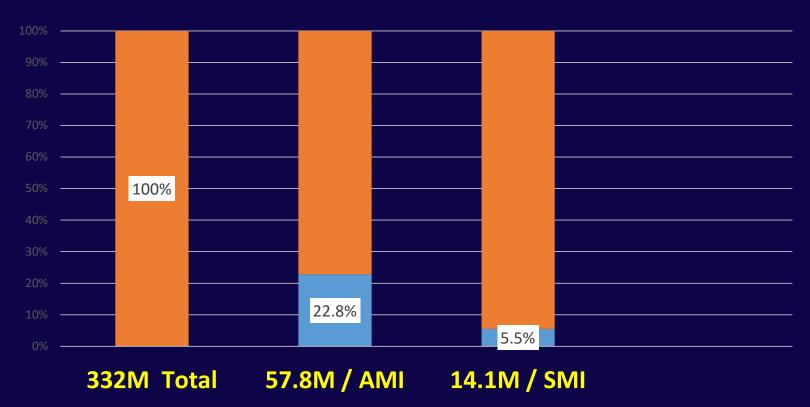
- <u>SMI</u> is defined as a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities.
- In 2021, there were an estimated 14.1 million adults aged 18 or older in the United States with <u>SMI</u>. This number represented 5.5% of all U.S. adults.
- In 2021, among the 14.1 million adults with **SMI**, 9.1 million (65.4%) received mental health treatment in the past year.

https://www.nimh.nih.gov/health/statistics/mental-illness

Prevalence of Mental Illness

2021 United States Population: 332M

U. S. Census Bureau



Depression/Major Depression

Symptoms of Depression

- Feeling sad, empty or numb
- Lost of interest in things that you used to enjoy
- Irritability
- Anxiety/worry
- Difficulty making decisions and concentrating
- Feeling guilty, hopeless, worthless
- Low self esteem
- Thoughts about death and/or suicide



Bipolar Disorder

Symptoms of Bipolar Disorder-Manic

- Feeling unusually "high" OR extremely irritable
- Unrealistic, grandiose beliefs about one's abilities or powers
- Sleeping very little, but feeling extremely energetic
- Talking so rapidly that others can't keep up
- Racing thoughts; jumping from 1 idea to the next
- Acting recklessly







Symptoms of Schizophrenia

- Social withdrawal
- Hostility or suspiciousness
- Deterioration of personal hygiene
- Flat, expressionless gaze
- Auditory or visual hallucinations
- Oversleeping or insomnia
- Odd or irrational statements
- Difficulty concentrating
- Strange use of words or way of speaking



Treatments for Mental Illness

- Medications
- Therapies
- Novel treatments
- Wrap Around Services
- Community Supports





Substance Abuse













Substance Use Disorder Warning Signs

- Increased use over time
- Increased tolerance for the substance
- Difficulty controlling use
- Symptoms of withdrawal
- Preoccupation with the substance
- Giving up important activities (work, social, family...)
- Continued use even after recognizing problem with substance use

Treatment for Substance Use

- Detox Programs for Alcohol, Benzodiazepines, and Opioids
- Rehabilitation Programs
- 12-Step or Similar Support Groups
- Peer and Environmental Supports

Intellectual Disability & Brain Injury



Brain Injury

- Damage to the brain that occurs after birth can cause acquired brain injuries (ABIs).
- ABIs can be caused by accidents, strokes, lack of oxygen, or degenerative neurological diseases.
- ABIs can affect cognitive, physical, emotional, and independent functioning. For example, a child with a traumatic brain injury may have learning problems, but they may also retain their intelligence and lack social skills.
- More serious brain Injuries can lead to permanent disability or even death.

Intellectual Disability

Texas Health and Safety Code

Sec. 591.003. DEFINITIONS. In this subtitle:

. . .

(7-a) "Intellectual disability" means significantly subaverage general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period.



Judges Most Recent Significant Study

- Stress and Resiliency in U. S. Judges, 2020 Journal of the Professional Lawyer, American Bar Association.
- 1,034 judges responded, making this the largest wellness survey of U.S. judges to date.
- https://mnlcl.org/wp-content/uploads/2022/09/journal-ofthe-professional-lawyer-2020.pdf

Stressors in Order of Rank

1.	79.7%	Importance/impact of decisions	(800)
2.	73.2	Heavy dockets	(730)
3.	67.6	Unprepared attorneys	(680)
4.	62.5	Self-represented litigants	(630)
5.	58.1	Dealing repeatedly with same parties without addressing underlying issues	(580)

Stressors in Order of Rank (2 of 4)

6.	48.5%	Incivility and lack of professionalism by counsel	(490)
7.	47.9	Unable to hear as many cases as needed	(480)
8.	47.3	Inadequate compensation structure	(470)
9.	45.9	Cases involving severe trauma/horror	(460)
10.	41.6	Running for office/reelection	(420)

Stressors in Order of Rank (3 of 4)

11.	48.5%	Incivility and lack of professionalism by counsel	(490)
12.	47.9	Unable to hear as many cases as needed	(480)
13.	47.3	Inadequate compensation structure	(470)
14.	45.9	Cases involving severe trauma/horror	(460)
15.	41.6	Running for office/reelection	(420)

Stressors in Order of Rank (4 of 4)

17.	37.2%	Increased use of electronic media	(370)
20.	35.7	High-profile cases	(360)
21.	20.2	Adversarial relationships with other judges	(200)
35.	16.7	Conflicts among my staff	(168)
37.	10.3	Concern about impaired colleagues	(100)

Reported Effects of Stress in Order of Rank

Fatigue / low energy	39%	 Decreased family time 	22%
 Sleep disturbance 	36%	 Discomfort (headaches, stomachache, etc.) 	
 Attention / concentration 	32%	stomachache, etc.)	22%
 Rumination re past cases 	31%	 Depressed mood 	15%
 Health concerns (high BP) 	28%	 Increased alcohol use 	10%
 Cynical job outlook 	26%	 Marital difficulties 	8%
 Apprehension / anxiety 	23%	 Increased tobacco use 	4%
Poor initiative	23%	 Thoughts of self-harm 	2%

Use of Alcohol

National Institute on Alcohol and Alcoholism



https://www.niaaa.nih.gov/alcohol-health/overview-alcohol-consumption/moderate-binge-drinking

Use of Alcohol

Moderate Consumption

Men – two drinks daily

Women – one drink daily

Heavy Consumption

Men – five or more drinks on any day or 15 or more per week

Women – four or more on any day or 8 or more drinks per week

Binge Drinking

Men – five or more drinks in about two hours

Women – four or more drinks in about two hours

https://www.niaaa.nih.gov/alcohol-health/overview-alcohol-consumption/moderate-binge-drinking

Improvement of Court System Judicial Wellness

- 1. Judicial Leaders Regularly Communicate Importance of Judicial Wellness
 - ✓ Texas Judicial Commission on Mental Health
 - ✓ Access to Confidential Consultation, Resources, Mentors and Peer Support (TLAP)
 - Convene a Judicial Wellness Taskforce

- 2. Consider Creating Disciplinary Diversion Program for minor infractions substantially resulting from:
 - Depression
 - Anxiety
 - Burnout
 - Trauma (Direct and Secondary)
 - Substance Abuse
 - Alcohol Abuse

Improvement of Court System Judicial Wellness

3. Routinely Include Wellness Reminders and

Materials:

At Conferences

• Website Links

• In Newsletters







Texas Lawyers Assistance Program (TLAP)

TLAP helps judges with issues related to substance use or mental health disorders and maintains a list of volunteer judges who are interested in providing support to peers in crisis.

www.tlaphelps.org



About TLAP Confidentiality

The Texas Lawyers' Assistance Program (TLAP) does not share any information from an attorney, law student, or judge seeking help from TLAP with non-TLAP third parties, the State Bar of Texas, the Texas Board of Law Examiners, the Office of Chief Disciplinary Counsel (CDC), or any other disciplinary agency or entity. TLAP keeps all communications confidential pursuant to statutory confidentiality granted by the Texas Health and Safety Code Section 467 except in very rare circumstances to prevent death or serious harm to a person or where required by law for child or elder abuse. TLAP is staffed by attorneys who have spent many years struggling with addiction and depression, and our team would go to any length to protect the people we care about most: those seeking help! If there is any fear of consequences in calling TLAP, we encourage those in need to call us anonymously—we can help.

Memorandum of Understanding Regarding TLAP Confidentiality, the State Bar of Texas, and the Office of Chief Disciplinary Counsel

To whom it may concern,

Lawyers, law students, and judges must be able to avail themselves of the help frequently needed for mental health and substance use issues without fear or hesitation. In that spirit, the Office of Chief Disciplinary Counsel (CDC) and the State Bar of Texas want to assure all lawyers, law students, and judges that the CDC and the State Bar of Texas adhere to and support the Texas Lawyers' Assistance Program's commitment to confidentiality above and will not seek confidential information from TLAP. We firmly stand behind the principle that "it's good to get help." (click hyperlink for more)

TREY APPEEL

EXECUTIVE DIRECTOR OF THE STATE BAR OF TEXAS

SEANA WILLING

CHIEF DISCIPLINARY COUNSEL FOR THE OFFICE OF CHIEF DISCIPLINARY COUNSEL

Texas Lawyers Assistance Program (TLAP)

Texas Health and Safety Code Sec. 467.007, Peer Assistance Programs, **Confidentiality**

- Information, reports or records CONFIDENTIAL
- Exceptions:
 - Report of failure to successfully complete assistance program to referring disciplinary agency,
 - Pertinent information to care professional,
 - Research purposes after identifying information removed.

Lawyers



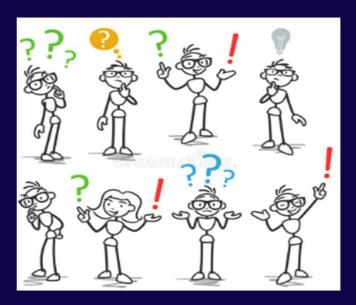




Texas Disciplinary Rules of Professional Conduct

Rule 803(a). Reporting Professional Misconduct

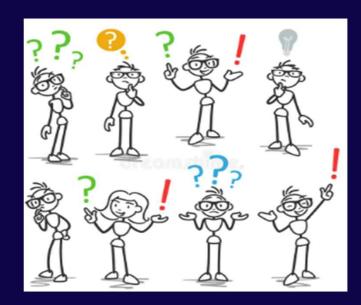
- A Lawyer
- Shall inform
- Appropriate disciplinary authority
- Knowledge that another lawyer
- Violated Rules of Professional Conduct
- Raises a substantial question regarding:
 - Honesty
 - Trustworthiness
 - Fitness as a lawyer



Texas Disciplinary Rules of Professional Conduct

Rule 803(b):

- An attorney,
- Shall Inform
- Appropriate disciplinary authority,
- If lawyer has knowledge
- Judge,
- Violated Rules of Judicial Conduct,
- That raise a substantial question
- As to the judge's fitness for office.



Texas Disciplinary Rules of Professional Conduct

Rule 803(c).

- Creates an exception for reporting a judge or attorney to the "appropriate disciplinary authority,"
- May report the matter to an approved peer assistance program,
- If the case involves chemical dependency on drugs or alcohol, or mental illness,
- The referring lawyer must still disclose any disciplinary violations that would have been reported to the disciplinary agency,
- Rule 803 does not require the disclosure of confidential or privileged information.

Reporting Impairment

Health and Safety Code, Sec. 467.005(a)

- Person
- Knows or Suspects
- Professional (Includes a Judge or Lawyer)
- Impaired by
 - Chemical Dependency
 - Alcohol or Drugs
 - Mental Illness
- May Report Name and Pertinent Information
- Approved Peer Assistance Program



Reporting Impairment

Health and Safety Code, Sec. 467.005(b)

- A Person
- Required by Law
- To Report
- Impaired Professional
- Satisfies Requirement
- If the Person
- Reports the Impaired Professional
- To An Approved Peer Assistance Program



Just the Facts

Commission for Lawyer Discipline

2022 - 2023 Annual Report SBOT

Disbarments: 24

Resignations in Lieu of Discipline: 17

Suspensions: 90

Public Reprimands: 35

Private Reprimands: 92

Grievance Referral Program: 58



Commission for Lawyer Discipline

Although the Commission does not keep statistics on the number of referrals that involve alcohol abuse, substance abuse or mental health, the commission staff advised me that these matters are frequently involved in cases referred to them.

At least five lawyers have received some form of sanction for impairment this year.

Recent Study

- The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys
- Published in the Journal of Addiction Medicine
- A sample of 12,825 licensed, employed attorneys completed surveys.

What Were the Results?

- Over 20% screened positive for hazardous, harmful, and potentially alcohol-dependent drinking.
- Men had a higher proportion than women.
- Younger participants and those working in the field for a shorter period of time also had higher proportions of positive responses.

Suicide Rates Among Lawyers

National Institute of Health data suggests:

- Between 10% to 12% of lawyers in the U.S. have contemplated suicide
- Whereas, adults ≥ 18 years of age in the United States population usually have just a 4% rate of contemplating suicide.

Potential Alcohol Dependent Drinking Work Environment

Judicial Chambers:	16.1%

(lowest)

• College or Law School: 17.2%

• In house public, government, nonprofit: 19%

• Private Firms: 23.4%

Potential Alcohol Dependent Drinking Position

• Junior Associate: 31.1% (highest)

• Senior Associate: 26.1%

• Junior Partner: 23.6%

• Senior Partner: 18.5% (lowest)

Managing Partner: 21%

https://pubmed.ncbi.nlm.nih.gov/26825268

Drug Use

12,825 Participants Completed Dependency Survey

Substance use in the past 12 mos*	
Alcohol	10874 (84.1)
Tobacco	2163 (16.9)
Sedatives	2015 (15.7)
Marijuana	1307 (10.2)
Opioids	722 (5.6)
Stimulants	612 (4.8)
Cocaine	107 (0.8)
*0.1.	1

^{*}Substance use includes both illicit and prescribed usage.

Mental Health

11,516 Participants Completed Mental Health Survey.

- Male attorneys had "significantly higher levels" of depression.
- Female attorneys had "higher levels" of anxiety and stress.
- Percentages decreased with age and / or years of experience.
- Percentages mirrored scores related to alcohol consumption.
 (Younger, less experienced, junior positions, more problems)

Mental Health

Depression Anxiety Stress Scale (DASS – 21) Total Sample: 12,300

	Depression		Anxiety		Stress	
	#	%	#	%	#	%
Normal	8816	71.7	9908	80.7	9485	77.3
Mild	1172	9.5	1059	8.6	1081	8.8
Moderate	1278	10.4	615	5.0	1001	8.2
Severe	496	4.0	310	2.5	546	4.4
Extremely Severe	538	4.4	385	3.1	158	1.3

 $https://journals.lww.com/journaladdictionmedicine/fulltext/2016/02000/the_prevalence_of_substance_use_and_other_mental.8. as pxing the prevalence of the p$

Resources for Lawyers (and Judges)

- 911 for life threatening emergencies.
- Texas Lawyers Assistance Program

Call or Text 1-800-343-TLAP (8527). https://www.tlaphelps.org/.

- Better Help Offered by State Bar of Texas, member services
 One month free online help for attorney, couples, children.
 https://www.betterhelp.com/statebaroftexas//.
- 988 Suicide and Crisis Lifeline, 24/7 Support for people in crisis.
- Mentalhealthtx.org. Non-emergency mental health or substance abuse services in local area.

Texas Lawyers Assistance Program

Number and Nature of Calls Received 2022 – 2023

Total Calls Received: 1,060

 Mental Health Concerns: 	66.5%	(705)
Substance Abuse:	30.5%	(323)
 Cognitive Decline: 	3.0%	(32)

Number and Nature of Calls Received 2023 - 2024

Total Calls Received: 987

 Mental Health Concerns: 	61%	(602)
Substance Abuse:	36%	(355)
 Cognitive Decline: 	3%	(30)

Texas Lawyers Assistance Program



Connecting Lawyers, Law Students, and Judges to Funds for Needed Care

Sheeran-Crowley Memorial Trust

- Up to \$3,000 for outpatient counseling and medication;
- Up to \$4,000 for intensive outpatient treatment and medication; and
- Up to \$10,000 for inpatient treatment.

ResourcesTexas Lawyers Assistance Program

To learn more about the Texas Lawyer Assistance Program scan the QR code.

TLAP is Strictly Confidential



Resources for Lawyers SBOT Client – Attorney Assistance Program (CAAP)

CAAP STATISTICS FOR 2022-2023

CAAP calls: 18,643

CAAP Email/Correspondence: 7,622

CAAP Dispute Resolution Files: 1,026 (83.5% successfully completed)

CAAP Discretionary Grievance Referrals: 844 (86.09% successfully completed)

Resources for Lawyers

CLIENT SECURITY FUND

- Client Security Fund is available to eligible clients from whom their attorney stole money or failed to return an unearned fee.
- Applications to the fund are reviewed and acted upon by the Client Security Fund Subcommittee, SBOT State Bar Board of Directors.
- In the 2022-2023 bar year, the administrator presented 234 applications to the subcommittee.
- 137 were approved, resulting in grants totaling \$892,449.72.

https://www.texasbar.com/AM/Template.cfm?Section=Client_Security_Fund1&Template=/CM/HTMLDisplay.cfm&ContentID=41945









Who Are Included?

- Court Coordinators
- Court Reporters
- Bailiffs
- Clerks
- Community Supervision Officers
- Pre Trial Release Officers
- Child Protective Service Workers
- Private Attorney Support Staff

Nearly one in five U.S. adults live with a mental illness.

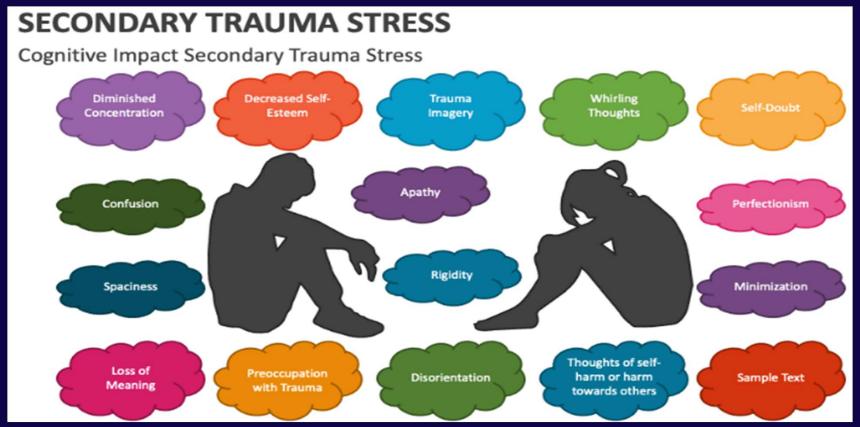
Workplace trauma has been reported to cause 120,000 deaths in the U.S. each year.

Approximately 65% of U.S. workers surveyed have characterized work as being a very significant or somewhat significant source of stress in each year from 2019 – 2021.

83% of U.S. workers suffer from work-related stress and 54% of workers report that work stress affects their home life.

For every \$1 spent on ordinary mental health concerns, employers see a \$4 return in productivity gains.

Secondary or Vicarious Trauma



Secondary or Vicarious Trauma

An occupational challenge for people working and volunteering in [certain occupations] . . . Due to their continuous exposure to victims of trauma and violence.

It's often a cumulative effect. That is, a result of repeated exposure to the worst of human experiences.

Justice System, Support & Auxiliary Staff

Secondary or Vicarious Trauma, Responses

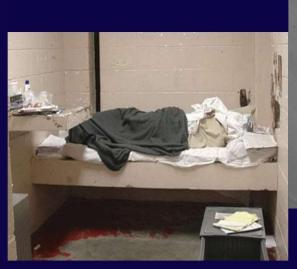
Court leaders must commit to fully integrating knowledge about trauma into policies and procedures, as well as implementing secondary trauma prevention and intervention strategies.

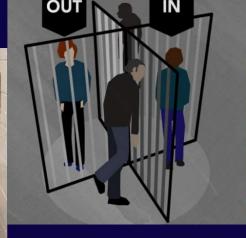
- Adopt policies that promote self-care
- Ensure a safe work environment
- Provide secondary trauma education
- Establish peer mentoring programs
- Offer supportive services
- Set manageable work and caseload expectations

Justice System, Support & Auxiliary Staff Resources

- See above resources for Judges and Lawyers
- Employee Assistance Programs
- Sensitivity to staff behavior
- Encourage use of vacation time
- Confer with trusted colleague re your possible contribution to stressful environment

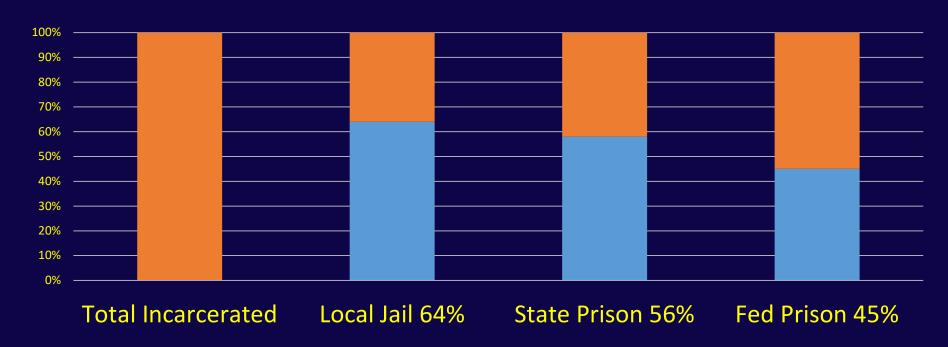
The Criminal Justice System





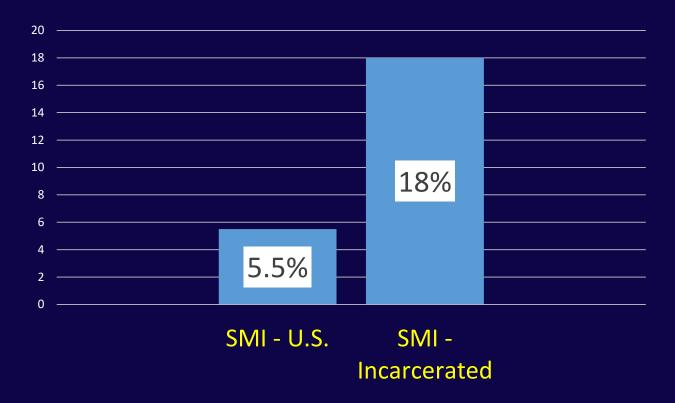


Prevalence of Mental Illness Among Inmates Bureau of Justice Statistics 2006



1.8 M https://bjs.ojp.gov/content/pub/pdf/mhppji.pdf

SMI: U.S. Population vs Incarcerated Population



https://www.nimh.nih.gov/health/statistics/mental-illness

State Hospital Waitlist Texas Health and Human Services Report to the Texas Legislature, May 2023

Table 5. Non-Maximum Security Forensic State Hospital Bed Waitlist

Q3	Q4	
574	566	
571	523	
1,481	1,526	
252	264	
	574 571 1,481	

www.hhs.texas.gov/sites/default/files/documents/mhs-waiting-lists-may-2023.pdf

State Hospital Waitlist

Table 6. Maximum Security Forensic State Hospital Bed Waitlist

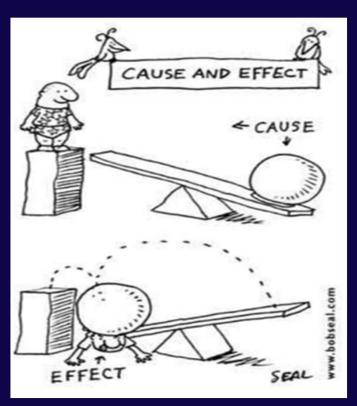
Data Element	Q3	Q4
People Added to the Waitlist	196	199
People Removed from the Waitlist	141	79
People on the Waitlist	883	991
Average Number of Days People Remained on the Waitlist	519	617

www.hhs.texas.gov/sites/default/files/documents/mhs-waiting-lists-may-2023.pdf

State Hospital Waitlist

Causation

- Bed Shortage
- Staff Recruitment
- Staff Retention
- Funding
- Coordination



State Hospital Waitlist Reduction Strategies

- New Houston MH Hospital
- Dallas MH Hospital Open 2025
- Renovation 4 MH Hospitals
- Add'l Renovation Construction
- Texas Legislature Fiscal Year 2025, 11.6B for DHS Mental and Behavioral Health Services*
- Enhanced Pay & Benefits for State
 Most Class B Misd not Eligible **Hospital Employees**
- Collaboration with State Universities for Workforce

Recruitment

- Better Communication with Local Officials (LMHA and LBHA)
- Jail Based Competency

Restoration

- Outpatient Competency Restoration
- CCP Art. 16.22 Early ID
- Assisted Outpatient Treatment
- CCP Art. 17.032 MH Bond



Shameless Pandering for Positive Instructor Evaluations



Thank you for your time and attention.

To contact us please email:

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Questions



Thank you to the Following who Contributed to this Presentation

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Christina Loftus

Attorney and Clinical Professional, Texas Lawyers Assistance Program

• Claire Reynolds

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Kate Reagor

Data Analyst, Texas Office of Court Administration

• MAJ. Brent A. Carr, Jr.

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