



## Practical Ideas for Counties to Streamline Competency Restoration and Save Money<sup>1</sup>

- 1. Assign One Point-of-Contact Between your County and the State Hospital.** Send a letter annually to the state hospital notifying them of your point-of-contact, who should receive all communication (name, email address, fax, and phone).
- 2. Communicate with the State Hospital via Email or Fax.** Use email or fax to save wait time when the state hospital notifies the county that the defendant is ready to be transported to or from the hospital.
- 3. Start Medication Orders Immediately.** When a person is on a competency order, consider filing an application with the probate or other appropriate court to initiate medications in custody before transport to help prevent deterioration. (These orders will require a doctor to file.)
- 4. Urge Defense/State Attorneys to Continue to Work on the Case While Waiting for the Defendant to Return.** Speed up the insanity defense process by getting the orders for insanity prior to the time the person returns. Although the report cannot be completed until competency is restored, the expert can begin to review the discovery, medical records, and any other permitted documentation before the defendant returns from the state hospital to save time on the evaluation process. Attorneys should continue working on competency cases to address discovery issues, plea offers, and all case information possible during the hospitalization to allow for speedy resolution once returned.
- 5. Coordinate Bench Warrants.** Once the contact person has received notice that an individual has been restored and can return to the jail, schedule a bench warrant within 3 days to cut time in getting the person back into the county jail.
- 6. Develop a Policy of Quick Court Settings Upon Return from State Hospital or Other Competency Restoration Program.** Have the county point-of-contact communicate with the court to set the defendant on a docket quickly upon returning from the state hospital or other competency restoration program. Section 32A.01 of the Code of Criminal Procedure relating to "speedy trial[s]" generally requires "the trial of a criminal action against a defendant who has been

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<sup>1</sup> Alyse Ferguson, Chief Attorney, Collin County Mental Health Managed Counsel, Practical Ideas for Counties to Streamline Competency Restoration and Save Money presentation at the JCMH Curriculum Committee Meeting (July 7, 2020).



determined to be restored to competency under Article 46B.084 . . . be given preference over other matters before the court, whether civil or criminal.” The only exception in terms of docket priority would be “the trial of a criminal action in which the alleged victim is younger than 14 years of age.” There are varying deadlines depending on the size of the county.<sup>2</sup>

7. **Develop a Policy of No Free Passes.** To help prevent decompensation of the defendant, make a judicial policy that an attorney may not pass a setting on a client who has returned from the state hospital unless he or she appears before the court.
  
8. **Hear Cases Before Medication Orders Expire.** Urge the judges in your community to hear the cases of returning defendants with medication orders before the orders expire: (i) 180 days after the defendant’s return from State Hospital to jail, or (ii) upon disposition of the case. Tex. Health and Safety Code Section 574.110.
  
9. **Set Weekly Medical Meetings to Review Specific Cases.** Utilize Tex. Health and Safety Code Section 614.017 to exchange information with the LMHA(s), jail command staff, the prosecutor, and defense attorney. Use these meetings as a time to review the status of cases with competency issues. Keep a running list of the following:
  - Who needs to be on the competency radar?
  - Who has improved?
  - Is outpatient competency restoration an option?
  - Who needs to be moved?
  - Is it time for the prosecutor to look at a case for dismissal?
  - Court notifications on those who are deteriorating or at risk.
  
- Reconsider defendants for outpatient restoration services after they have been stabilized in the county jail. This can shorten your jail’s waitlist for the state hospital.
  
- After medical meetings, email the court any updates or reminders that action may need to be taken soon. For example, a client is deteriorating in jail or a medication order is about to expire.

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<sup>2</sup> TEX. CODE OF CRIM. PROC. Art. 46B.084, §§ (a) – (d); See also Brian D. Shannon, Texas Criminal Procedure and the Offender with Mental Illness at 94 – 98. Available at <https://namitexas.org/texas-criminal-justice-guide/>.