

Judge: Mentally incompetent state inmates being kept in jail too long

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Updated: 12:23 a.m. Thursday,

Jan. 26, 2012 Published: 10:42 p.m. Wednesday, Jan. 25, 2012

Texas routinely violates the constitutional rights of mentally incompetent prisoners by forcing them to stay in jail for up to six months before moving them to psychiatric hospitals, a Travis County judge ruled this week.

State District Judge Orlinda Naranjo ruled that the Department of State Health Services must start moving "forensic commitments" —people accused of crimes who have been ruled incompetent to stand trial because of mental illness —to state psychiatric hospitals within 21 days of receiving a judge's order. Over the past two years, the average prisoner spent six months in jail waiting for a hospital bed, the ruling states.

"Keeping incompetent pretrial criminal defendants confined in county jail for unreasonable periods of time violates the incompetent detainees' due process rights as guaranteed by the Texas Constitution," Naranjo wrote.

A final order that would specifically lay out how the health department should proceed has not been issued, said Tom Kelley, spokesman for the attorney general's office. That agency has not decided whether it will appeal the case. Right now, there is no timetable for when the changes might be instituted.

"Getting people into treatment as quickly as possible is extremely important to us," said Carrie Williams, a spokeswoman for the Department of State Health Services. "The sooner the better. We're always working toward that, and we will explore how we would logistically comply with a final order.

"The ruling, issued Monday, stems from a 2007 lawsuit filed by Disability Rights Texas, a federally funded organization that advocates for people with disabilities, including mental illness. In that lawsuit, the group claimed that the health department regularly refuses to take forensic commitments because the hospitals do not have space for them. Once at such facilities, inmates receive psychiatric drugs and other treatments to restore their mental ability to face their criminal charges.

But the delay in getting inmates into hospitals clogs local jails, slows the legal system and violates inmates' rights to due process, said Beth Mitchell, a lawyer with Disability Rights Texas. On Wednesday, the Travis County Sheriff's Office had 18 inmates waiting for a bed at a psychiatric facility.

"I'm happy that the judge ruled it was a violation to keep people in jail when what they needed is treatment," she said. "Right now what we're doing is criminalizing the mentally ill.

"The ruling brings to a head a problem that has dogged the health department for years: too many forensic commitments, not enough beds. Over the past two years, an average of 400 inmates were waiting at any given time for one of the 800 hospital beds set aside for forensic patients, Naranjo wrote.

"Forensic beds don't turn over very quickly," Williams said. "The length of stay for a forensic admission is about three times longer than a civil admission, and the waiting list builds up. We've tried hard to address the issue, but we can't admit one unless we discharge one, and we have to take into account what's best for the patient, not just the numbers."

Mitchell said the problem is caused, in part, because the hospitals house many forensic commitments who will never regain competency. Some are too mentally ill. Others have medical problems, such as dementia, that keep them from understanding the charges against them.

Some of those people —those whose doctors say they are not dangerous —could be released to nursing homes or community programs, which would make room in the hospital for new people, Mitchell said. About half of the people on forensic commitments are accused of misdemeanors, such as assault or public intoxication, she said.