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Health and Human  
Services

# Texas Competency Restoration: Outpatient and Jail-Based

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LaQuinta Swan and  
Lucrece Pierre-Carr

The 2nd Annual Statewide Judicial Summit  
on Mental Health

# Competency Restoration Opportunities

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- **Outpatient Competency Restoration (OCR)**
- **Jail-Based Competency Restoration (JBCR)**



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# OCR: Legislative Authority

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## Senate Bill (S.B.) 867, 80th Texas Legislature, Regular Session, 2007

- Amended Code of Criminal Procedure, Chapter 46B permitting outpatient treatment.
- Department of State Health Services funded \$4 million to pilot four programs:
  - ▶ Integral Care (Austin)
  - ▶ Center for Health Care Services (San Antonio)
  - ▶ MHMR Tarrant County (Fort Worth)
  - ▶ Value Options-NorthSTAR (Dallas)-now North Texas Behavioral Health Authority



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# OCR: Legislative Authority

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## Program Expansion in 2007, 2011, 2018

- Spindletop Center (Beaumont) (no longer in operation)
- Tri-County Behavioral Healthcare (Conroe)
- Behavioral Health Center Nueces County (Corpus Christi)
- Emergence Health Network (El Paso)
- Community Healthcore (Longview)
- StarCare Specialty Health System (Lubbock)
- Andrews Center Behavioral Healthcare System (Tyler)
- Heart of Texas Region MHMR Center (Waco)
- Central Counties Services (Belton)



# OCR: Services

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## Assessments:

- Adult Needs and Strengths Assessment
- Biopsychosocial Assessment
- HHSC Substance Use Screening Tool
- Risk Assessment (e.g. Violence Risk Assessment Scheme (HCR-20))



# OCR: Services

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- Curriculum-based competency restoration education
- Peer supports
- Access to housing resources
- Psychosocial rehabilitative services
- Psychiatric and medical medications
- Cognitive Processing Therapy
- Substance use inpatient or outpatient treatment
- Residential treatment



# OCR: Data

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## Total Served:

- Total number served since inception (10/27/2010): **1,723**

## Diagnosis:

- Schizophrenia and related disorders: **54.04%**
- Affective disorders – Bipolar: **16.17%**
- Affective disorders – Major Depression: **9.39%**
- Dementia/other cognitive disorders: **3.51%**
- Other psychoses: **3.09%**
- All other diagnoses: **10.46%**



# OCR: Data (Cont'd)

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## Criminal Charges:

- Felony offenses: 50.09%
- Misdemeanor offenses: 49.91%

## Average length of stay:

- Mean number of days = 176.07

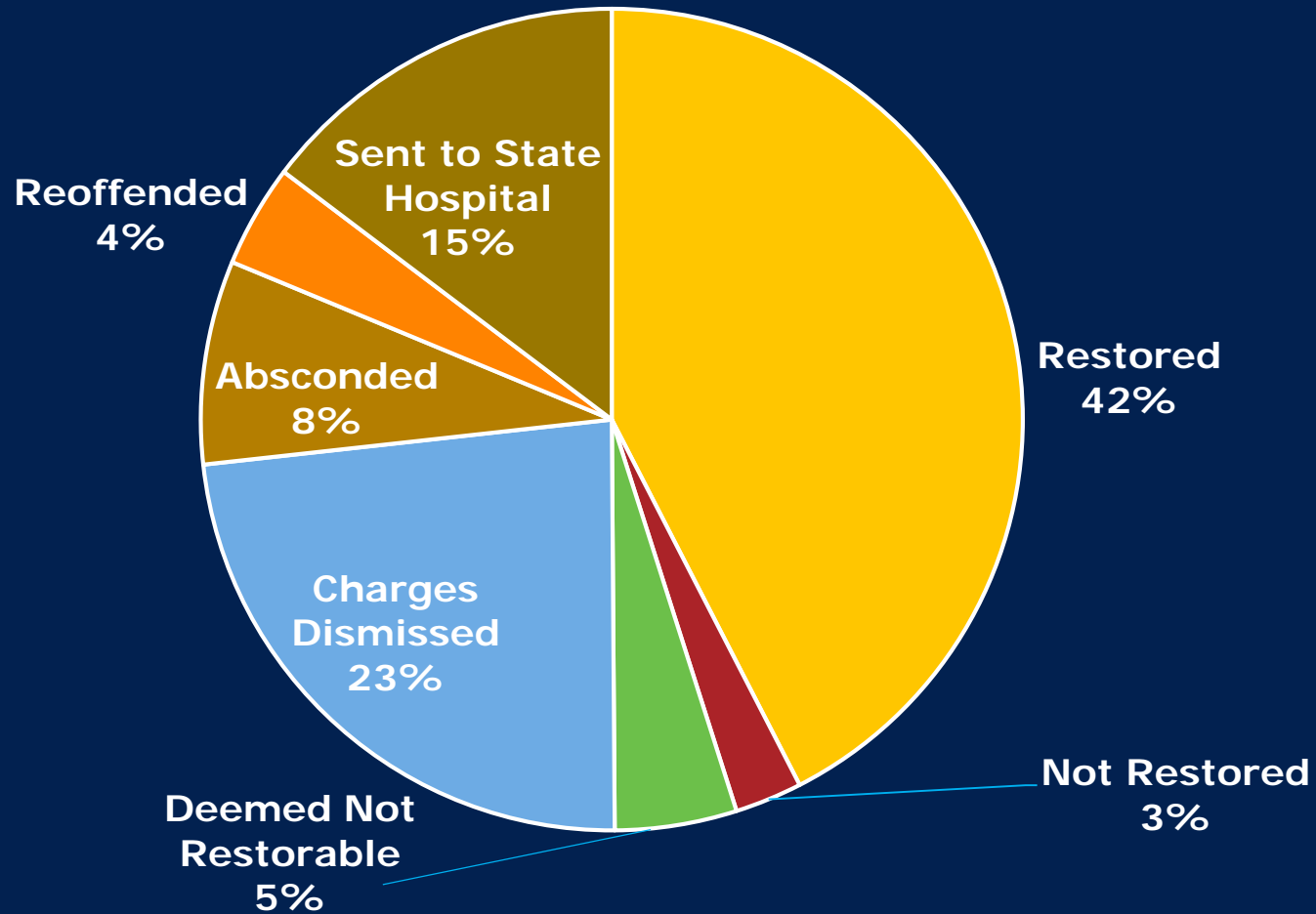


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# OCR: Outcomes

- Restored
- Charges Dismissed
- Sent to State Hospital
- Not Restored
- Absconded
- Deemed Not Restorable
- Reoffended



# OCR: Rules

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## Outpatient Competency Restoration External Stakeholder Rules Workgroup

- Purpose: To develop standards governing how OCR services are provided.
- Workgroup members:
  - ▶ Judges
  - ▶ Defense and prosecuting attorneys
  - ▶ Outpatient and inpatient providers
  - ▶ Policy groups
  - ▶ Advocacy groups
  - ▶ HHSC staff
- Met six times between July 2018 and August 2019.



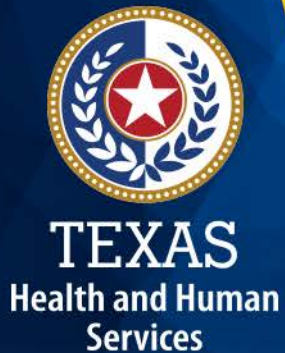
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# OCR: Rules

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## Draft 26 Texas Administrative Code, Chapter 307, Subchapter D

- Eligibility and ineligibility criteria for admission
- Recommendation regarding OCR program admission
- General service requirements
- Assessment, reassessment, and court reporting
- Preparation for discharge
- Outcomes
- Written policies and procedures
- Staff member training
- Rights
- Compliance with statutes and rules



# JBCR: Legislative Authority

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## S.B. 1475, 83rd Texas Legislature, Regular Session, 2013

- Authorized HHSC to implement a JBCR pilot program in one or two counties that chose to participate.

## S.B. 1326, 85th Texas Legislature, Regular Session, 2017

- Allows a county or counties to implement a JBCR program and requires HHSC to adopt rules as necessary to govern development and implementation.



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# JBCR: Legislative Authority

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## S.B. 292, 85th Texas Legislature, Regular Session, 2017

- Authorized the Mental Health Grant Program for Justice-Involved Individuals.
- HHSC awarded \$1.9 million to four JBCR programs.
  - ▶ North Texas Behavioral Health Authority (Dallas)
  - ▶ StarCare Specialty Health System (Lubbock)
  - ▶ Tarrant County MHMR (Tarrant)
  - ▶ PermianCare (Midland)
- JBCR rules adopted August 2018.



# JBCR: Services

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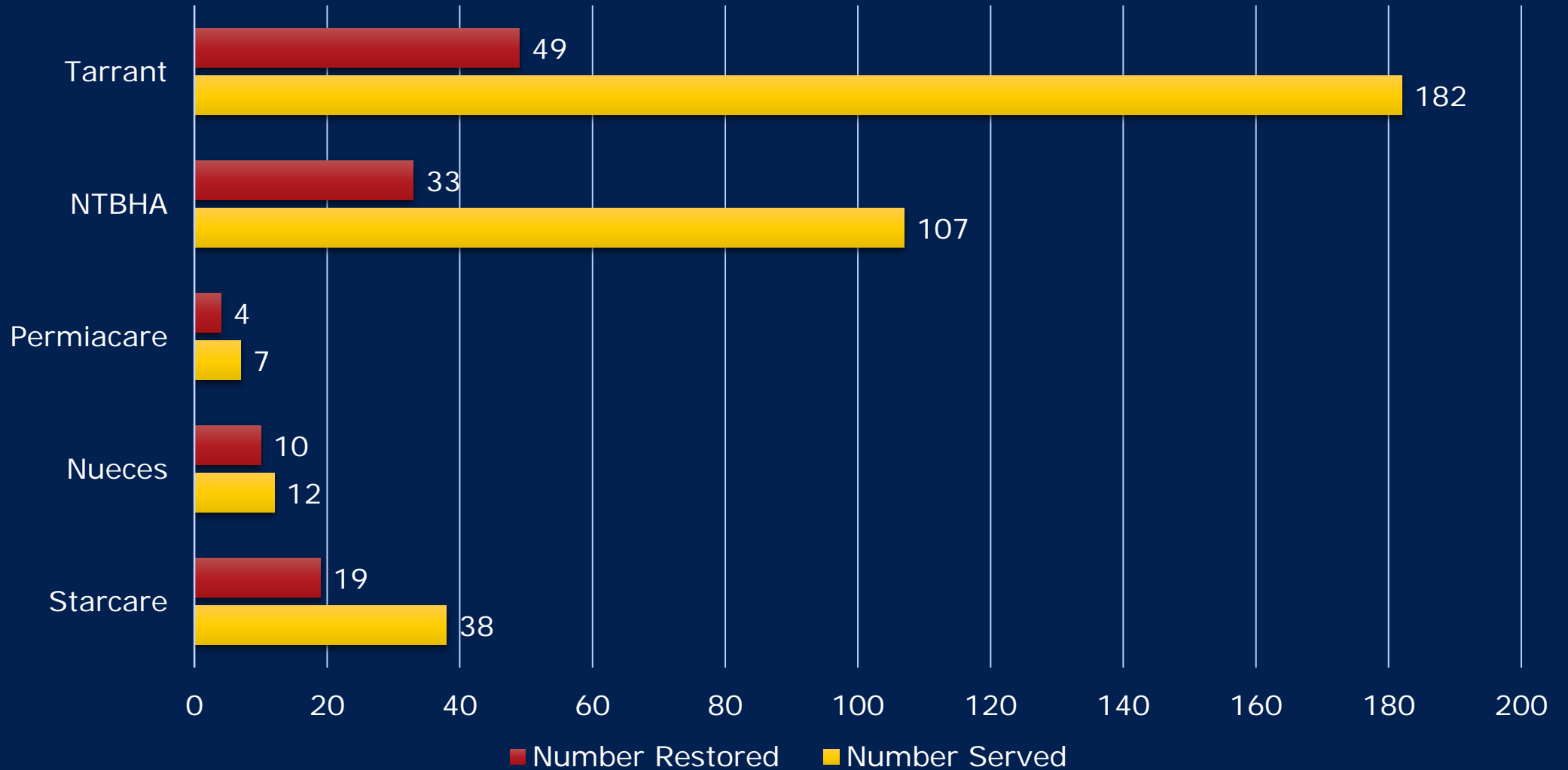
- Multidisciplinary treatment team
- Cognitive Behavioral Therapy
- Curriculum-based competency restoration education
- Motivational interviewing/treatment planning
- Coordination of general healthcare



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# JBCR: Data

Fiscal Year 2019



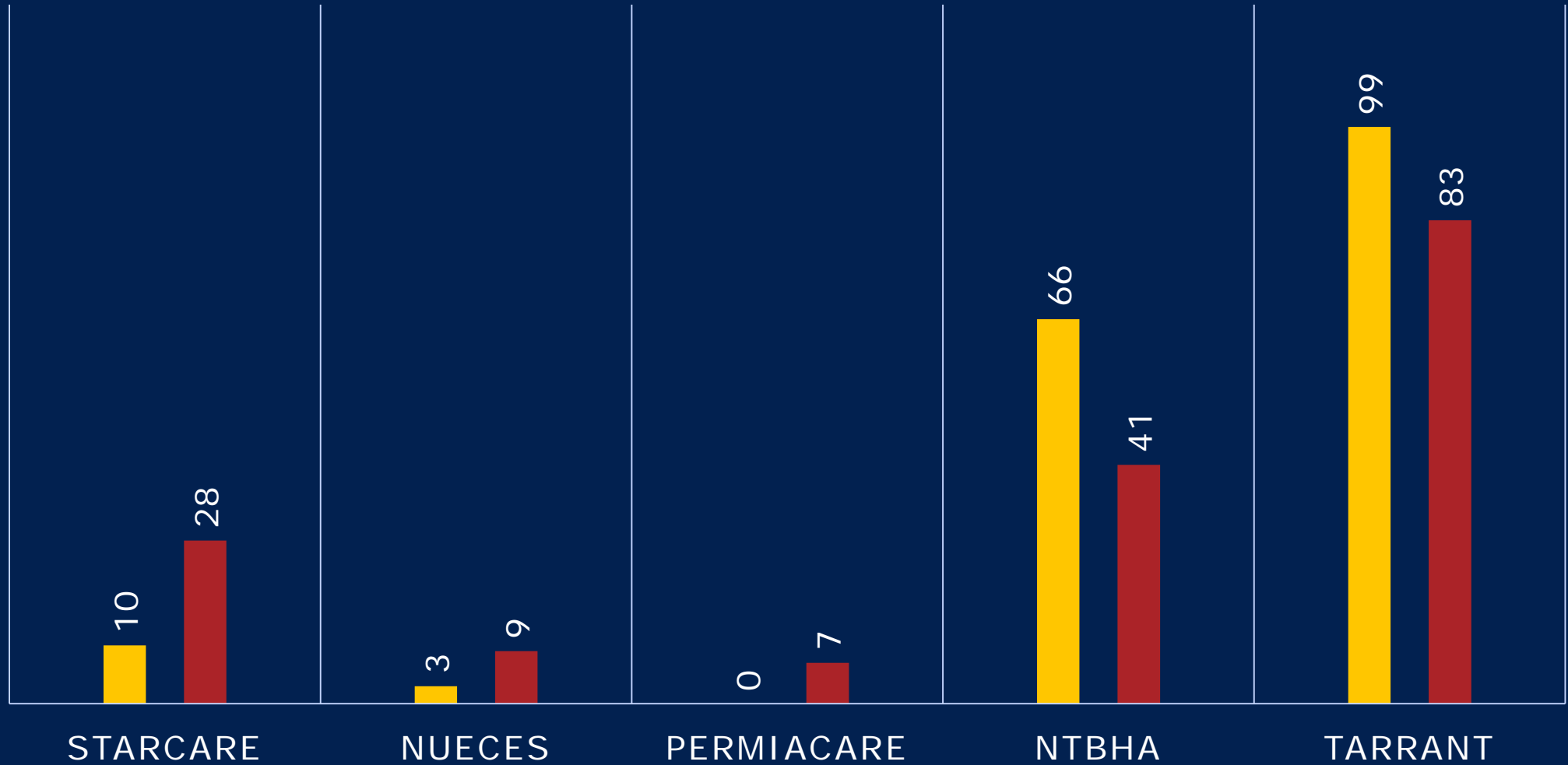
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# JBCR: Data



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■ FY19 Misdemeanor ■ FY19 Felony







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# Thank You

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# Judicial Commission on Mental Health Summit

Tarrant County Restoration Programs

Nelda T. Cacciotti

November 18, 2019



# INCOMPETENT AND LIKELY TO BE RESTORED

- Court determines duration and place of commitment pursuant to art. 46B.071, 46B.072 or 46B.073
  - Outpatient
  - Jail-based
  - State Hospital
- 2017 Amendments to CCP 46B
  - promote local restoration



# JUDICIAL CONSIDERATIONS

- Expert recommendation / program recommendation
- Appropriate and available program and treatment plan
- MH/IDD status / diagnosis
- Current charge
- Criminal history
- Risk to community/victim and D (OCR)
- Stability (medication compliance, cooperative, drug issues, housing, support system, etc.)



# LOCAL RESTORATION TREATMENT

## Tarrant County

- Outpatient Competency Restoration Program (OCR)
- Jail-Based Competency Restoration Program (JBCR)
- Restoration Dockets
  - OCR
  - Competency Docket



# TARRANT COUNTY OCR

- Started June 2008
- Team lead and 2 senior case workers (QMHP)
- Contract with psychologist for competency evaluations
- Jail psychiatrists complete CMEs for extended commitments
- Staff cases with judge
- Dockets



# TARRANT COUNTY OCR

- Restoration training 2x/week
- MH / IDD service coordination
- Medication education and management
- Co-occurring disorders education and training
- Housing assistance
- Employment assistance
- Rehabilitation training
- Transitional services following case disposition
- Meet with the judge





## OCR Client Progress Update

Date: 11-4-19

Name:		CID:		MHMR #:		
Case #(s)		Court:	Offense(s)			
Program(s)	Case Manager		In Jail?	Book-In Date	Book-Out Date	
OCR	A. Brown		No	11-21-18	11-22-18	
Start Date	Initial End	60 day rqst	60 day end	1 yr request	1 year end	Extension Date
4-25-19	8-23-19	8-9-19	10-22-19	10-8-19	10-16-20	
Address:						
Phone no./ROI:						
Diagnoses						
1. Bipolar Disorder						
Provider			Last Date of Service		Meds ordered, if not reasoning	
JPS			9-23-19		Yes	
Current Medications & Dosage			Neurontin 300MG, Sertraline HCL 100MG			
Summary of activities since last docket						
Groups(s) Attending: OCR Group						
Defendant is meeting with case worker twice weekly as required and putting forth the effort to learn the court terms. Defendant often underestimates his ability to learn the court terms due to his mental illness. Defendant has very rigid views about the judicial system and even when presented with facts, he will still conform to his own views and become upset if others don't agree. Defendant currently has difficulty staying on topic and has the tendency to obsess about going to jail. Defendant is making some progress and taking his medications as prescribed.						
Baseline Score		Most recent Score		Date most recent Test		
25%		42.5%		10-24-19		
Competency Goals		Competency Eval Notes				Mastered
Appreciation of Charges		Confusion and lack of understanding				<input type="checkbox"/>
Time Sentenced		Does not have a reasonable idea of consequences				<input type="checkbox"/>
Court System		Does not demonstrate full understanding of adversarial nature				<input type="checkbox"/>
Assist attorney		Unable to engage in defense strategies, cannot interact in a rational manner, significant difficulties formulating coherent or logical responses to questions				<input type="checkbox"/>
Court Behavior		Can behave in court				<input checked="" type="checkbox"/>
Ability to Testify		Does not possess ability to testify – incorporates illogical ideas				<input type="checkbox"/>





# 2019 FISCAL YEAR STATS

September 2018 – August 2019

Total Ordered into OCR	37
Competent	16
Dismissed Cases	7
Transferred to Bond Case Load or Other MHMR Program	7
Still Enrolled in OCR	5
Sent to State Hospital	2
Total Diverted from State Hospital	35
Percent Diverted from State Hospital	94.6%



# TARRANT COUNTY JBCCR

- Started May 2018
- Multidisciplinary treatment team – at least 1 psychiatrist
  - Program coordinator and 2 senior caseworkers (QMHP)
  - Jail psychiatrist
- Restoration training, medication management, MH treatment, substance use disorder treatment
  - same # of weekly restoration hours as SH
  - Start restoration training within 72 hrs
- Takes place in Tarrant County Jail
- Contract with psychologist for competency evaluations
- 21 day and 55 day evaluation and report to court
- Staff cases with judge
- Docket



## Office Visit

JPS TARRANT CORRECTIONAL FACILITY LAMAR

Kaufman, Kendall J. PAC  
Physician Assistant

Schizoaffective disorder, bipolar type  
Dx

## Progress Notes

### Tarrant County MHMR Forensic Mental Health Psychiatric Follow Up

DATE: 10/12/2019
NAME:
DOB:
CID:

#### CC: Medication Follow Up

HPI: Pt is housed on 71A. Available labs, vitals, and other diagnostics reviewed. Pt was seen sleeping upon my arrival. Pt reports she has been medication compliant and they are helpful. Pt denies having psych symptoms at this time and states she does not need meds. She is however agreeable to continue taking Cogentin and Haldol as prescribed. Pt denies problems with mood, sleep, or anxiety. Pt denies SI/HI/AVH and states she is ready to go home. Overall, Pt is calm and cooperative with treatment. Pt previously found incompetent to stand trial and ordered to participate in Jail-Based Competency Restoration Program.

#### Current Meds:

benztropine (COGENTIN) 1 MG tablet  
Sig: Take 1 tablet (1 mg total) by mouth every evening for EPS.  
Dispense: 90 tablet  
Refill: 0  
haloperidol (HALDOL) 5 MG tablet  
Sig: Take 1 tablet (5 mg total) by mouth every evening for Mental Disorder.  
Dispense: 90 tablet  
Refill: 0

No Known Allergies

#### Mental Status Exam

LOC:	Alert
Orientation:	Time, Person and Place
Appearance:	Appears to be age appropriate
Motor Activity:	Calm
Behavior:	Cooperative
Eye contact:	Fair

Verbal:	Normal
Mood:	Neutral
Affect:	Normal affect
Cognitive problems:	None
Hallucinations:	None
Delusions:	None
Thought Processes:	Goal directed
Insight/Judgement:	Poor
Suicidal Ideation:	No
Homicidal Ideation:	No

AIMS 0

#### Assessment:

DSM V Diagnosis:	1. Schizoaffective disorder, bipolar type	benztropine (COGENTIN) 1 MG tablet haloperidol (HALDOL) 5 MG tablet
Active Problem List:	Patient Active Problem List Diagnosis <ul style="list-style-type: none"><li>Personal history of noncompliance with medical treatment, presenting hazards to health</li><li>Schizoaffective disorder, bipolar type</li><li>Screening-pulmonary TB</li><li>Suicidal ideation</li><li>Seizure disorder</li><li>Vitamin D deficiency</li></ul>	

#### Plan:

- Continue haldol 5mg Qhs
- Continue Cogentin 1mg Qhs

#### Orders Placed This Encounter

- benztropine (COGENTIN) 1 MG tablet  
Sig: Take 1 tablet (1 mg total) by mouth every evening for EPS.  
Dispense: 90 tablet  
Refill: 0
- haloperidol (HALDOL) 5 MG tablet  
Sig: Take 1 tablet (5 mg total) by mouth every evening for Mental Disorder.  
Dispense: 90 tablet  
Refill: 0
- Housing per MHMR counselor recommendation and jail standards
- MHMR Staff Instructions: Routine





Date of Evaluation: 9/24/19

RE: JBCR 21 Day Doctor Evaluation Results Letter

Name: Cause:

Judge Cacciotti,

Progress or Lack of Progress Made in Program:

Due to the ongoing medical and psychiatric conditions of the patient, we believe that the patient's mental health condition

- Has improved
- Has not improved.

Further, the patient regarding rational and/or factual understanding

- has shown improvement
- has not shown improvement

My observations:

Pt is ordered to the JBCR program. Evaluated Pt this morning and he is paranoid and angry. He only wanted to know how his mother and sister are doping and when he can go home. Explained this information is not available and he became very agitated, started rambling and cussing nonsensically. Two inmates on this pod report that Pt often talks to himself in the cell and appears confused; not knowing he is in jail. Pt was prescribed Depakote and Prolixin at JPS in 2018.

Medications:

- yes  no Is medication prescribed? If yes complete the following questions:
- yes  no Is the prescribed medication medically appropriate?

3840 Hulen St.



Jail Base Competency Restoration Program

- yes  no Is the prescribed medication in the best medical interest of Pt?
- yes  no Does the prescribed medication present side effects that cause harm to the Pt that is greater than the medical benefit to Pt?

Recommendation to court:

- The patient has shown improvement and we will continue with the current competency restoration services.
- Sufficient progress towards restoration has not been made thus far. Pt appears to require more intensive mental health services that can be provided in a hospital setting. We respectfully recommend that the court consider a review of the case for the possibility of state hospital commitment for mental health treatment and further work competency restoration.

Sincerely,

Xiaoyan Wu, M.D.





NOTICE OF JBCR DISCHARGE AND REPORT TO COURT

Re: Cause No.:  
Discharge Date: 10/07/19

Dear Judge Cacciotti,

Pursuant to the Court's order, the above-referenced Defendant entered the Jail-Based Competency Restoration Program (JBCR). While in our program, the Defendant was diagnosed with a mental illness and/or substance use disorder and prescribed medication(s) as listed below. The Defendant was medication compliant.

Diagnosis:

Bipolar affective disorder, currently manic, moderate

Medication(s):

(ZYPREXA) 10 MG tablet

After attempting to provide competency restoration services, mental health services and substance use disorder services, as necessary, for 60 days, it is our opinion that the Defendant has not attained competency to stand trial while in our program and requires further mental health and competency restoration services in a state mental health facility. This opinion is based on the following:

1. The Defendant appears to not have improved in rational and factual understanding of the proceedings against him/her.
2. The Defendant's lack of cooperation has been so extensive that educational programming has not been possible.

Accordingly, the Defendant is discharged from JBCR as of the date referenced above and we recommend that the Court consider transferring the Defendant to a state mental health facility for further treatment and services.

Respectfully Submitted,

Michael Gardner, LPC  
JBCR Program Manager  
Cell: (817) 965 4197  
Fax: (817) 212 7005 Email: [Michael.gardner@mhmr.org](mailto:Michael.gardner@mhmr.org)



# 2019 FISCAL YEAR STATS

September 2018 – August 2019

Total Ordered into JBCR	182
Competent	60
Dismissed Cases	37
Transferred to OCR	6
Total Diverted from State Hospital	103
Sent to State Hospital	79
Percent Diverted	56.59%



# 138

Did not go to the state hospital



# WHAT HAS WORKED

- Communication
- Point of contact for courts, programs, LMHA, SH
- Procedures
- Using existing resources
- Staffing cases
- Dockets





# QUESTIONS?

Nelda Cacciotti

JSC / Mental Health Magistrate

Tarrant County Criminal Courts

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**STARCARE**  
SPECIALTY HEALTH SYSTEM

## Judicial Commission on Mental Health Summit

StarCare Specialty Health System  
Lubbock County  
Jail Based Competency Restoration

# Local Restoration

- Jail Based Competency Restoration (JBCR)
- Outpatient Competency Restoration
- Restoration Docket
  - OCR/JBCR/Inpatient as needed/State Hospital
  - NC/NR

# Jail Based Competency Restoration

- Services provided starting **September 1, 2018**
- **Staffing**
  - Director (LPC)
  - Educator (LPC)
  - Case manager x2 (QMHP-CS)
  - Forensic Psychologist/Clinical Supervisor (PhD)
  - Psychiatrist (MD)
  - Physician's Assistant (PA-C)
  - County contracted psychologists for initial and final evaluations

# Jail Based Competency Restoration Cont.

JBCR takes places in the Lubbock County Detention Center (LCDC), StarCare Mental Health Suite

## Consumer Activities

- Individual sessions
- Group sessions
- Case management sessions
- Weekly multidisciplinary treatment team
- Day 21 and 55 evaluations
- Attorney meetings

## Staff Responsibilities

- Coordinate with courts/Attend docket
- Communicate with attorneys/LPDO
- Pod checks/Officer check-ins
- Monitor client progress
- Provides education/Case management
- Facilitate all consumer activities
- Medication management
- Facilitate medical certificate process
- Ensure continuation of treatment as needed
- Maintain working relationships with LCDC

# Jail Based Competency Restoration Numbers

	FY2019	FY2020	TOTAL
Treated Total	38	8	46
Found Competent	19	0	19
Found Incompetent	5	0	5
No final eval due to dismissal	5	0	5
Pending 2nd final eval	2	0	2
Pending final eval	4	0	4
Pending disposition	8	8	16
Still in treatment	3	5	8
Felony Charges	28	3	31
Misdemeanor Charges	10	5	15