



Mental Illness and the Death Penalty in Texas: Know the Facts

- The State of Texas ranks **47th nationally** in terms of per capita spending on mental healthcare, according to the National Alliance on Mental Illness (NAMI). It ranks **1st in executions** (more than 400 since 1982).
- Around **30 percent** of those incarcerated in Texas prison or jails have been clients of the state's public mental health system. (Texas Department of Criminal Justice)
- Mental illness **can impact a defendant's ability** to communicate effectively with his/her attorney, participate in legal proceedings, make rational decisions, or behave appropriately in a courtroom. It also can impact his/her ability to assist with appeals.
- In 2002, the U.S. Supreme Court held that the death penalty is unconstitutional for people with mental retardation (*Atkins v. Virginia*). It **has not excluded** offenders with severe mental illness from the death penalty.
- In 1986, the U.S. Supreme Court ruled in the case of *Ford v. Wainwright* that it is unconstitutional to execute someone who does not understand the reason for or the reality of his or her punishment. The *Ford* decision left the determination of insanity and competency for execution up to each state, however, and **it has not prevented** the execution of scores of offenders diagnosed with severe and persistent mental illnesses.
- The Texas Legislature did not establish a statute governing the process to determine competency to be executed until **1999**.
- The U.S. Fifth Circuit Court of Appeals, which considers cases from Texas, Louisiana, and Mississippi, has **never found a death row inmate incompetent for execution**. In a 2007 U.S. Supreme Court decision, *Panetti vs. Quarterman*, the justices ruled that "the Fifth Circuit's incompetency standard is **too restrictive** to afford a prisoner Eighth Amendment protections." At issue is the distinction between an inmate's "awareness" versus "rational understanding" of why she/he is to be executed.
- At least **25 individuals** with documented diagnoses of paranoid schizophrenia, bipolar disorder, and other persistent and severe mental illnesses have been executed by the State of Texas. Many had sought services before the commission of their crimes, but were denied long-term treatment.
- Approximately **15-20%** of Texas death row inmates receive ongoing mental health services. (*Houston Chronicle*, March 18, 2007)
- The "insanity defense" is **rarely used** and **rarely successful**. Less than one percent of all defendants raise the insanity defense; of these, even fewer defendants are found Not Guilty by Reason of Insanity. (*Psychiatric Times*, April, 2002)
- The American Bar Association, the American Psychiatric Association, the American Psychological Association, and the National Alliance on Mental Illness have adopted a **recommendation calling for a prohibition on the death penalty** for those with severe mental disorders or disabilities. Numerous mental health organizations in Texas also have condemned the execution of offenders with severe mental illness.

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