

# KARE 11 Investigates - The GAP: Failure to Treat, Failure to Protect

Born out of breaking news – the mass shooting and bombing at a rural medical clinic – KARE's investigation laid bare Minnesota's systemic failures to treat the mentally ill and protect the public.

Over 10 months, KARE 11 revealed that criminal suspects deemed too mentally ill to stand trial are often released without adequate treatment or supervision due to gaps in state law.

The exposures were so revelatory that lawmakers immediately began scheduling legislative hearings.

"It's a mess. There are gaps here that simply should not be allowed to be," said State Senator Jim Abeler, "We're failing the humanity test, we're failing the protection to the public test." In response, new legislation has been drafted to be introduced in early 2022 to begin closing the gaps KARE 11 exposed. "The risk of doing nothing is that we end up with more cases like you've reported on where families are going to be ripped apart," said State Representative Tony Albright. "We can't go along like this any longer."

## This investigation revealed:

- How a man charged with threatening to shoot up a clinic had those charges dismissed due to severe mental illness. Yet he never received the care he needed and was still able to legally purchase a gun and carry out his threats.
- A sudden unilateral policy change by a powerful state agency created a gap where mentally ill
  criminal defendants, who judges have ordered civilly committed, are released while still
  incompetent to go to trial and given little to no oversight or treatment.
- While the state claims it only releases mentally incompetent defendants when it is safe to do so, officials admitted they do not track what happens after they return to the community.
- When KARE 11 began tracking what the state wasn't, we documented more than 50 recent cases where mentally ill individuals who were released by the state went on to be charged with new violent crimes including murders, rapes, and dozens of assaults.
- In one case, KARE 11 discovered a severely mentally ill man charged with multiple sexual assaults and repeatedly released, went missing leading his own attorney to label him "a ticking time bomb." KARE 11's journalists found him wandering the streets.
- In Minnesota, unlike other states, it is no one's job to attempt to restore mentally ill criminal defendants to competency a loophole in the law that prevents judges from keeping people known to be a danger to the public off the streets. "We don't have the authority to do anything else but let them go," explained Chief Judge Kathryn Messerich who said this gap is costing human lives.

Because no agency in the state was identifying and tracking gap cases, KARE 11 built its own database using analysis of court, police, and open-source data. The never-before-done multi-platform reporting by a team of journalists is based on hundreds of public records requests, appeals of denials, review of thousands of pages of criminal and mental health court filings and dozens of interviews.

This was an unusually challenging project that required KARE 11 to navigate numerous complex ethical issues throughout the reporting process.

## They include:

Part one of this investigative series focused on a mass shooting at a medical clinic. The accused gunman gave an exclusive jail house interview to KARE 11 filled with new information on what was one of the most hi-profile news stories in the state. This led to an extensive ethics discussion between the reporters along with station and corporate management about how to best report what was very clearly newsworthy information while not just giving an accused mass shooter a platform and the notoriety he craved.
The decision was to eschew the easy story and not rush the interview on air. Instead waiting several weeks, taking the time to frame the story around the victims, limit how often we used

the gunman's name and how we incorporated his interview. We also added the following language into the report to be transparent with viewers about why we were interviewing him:

"To get some of the answers we were seeking we needed to talk with a man here at the Wright County jail who's voice you may not want to hear. We're not looking to give the accused Buffalo clinic shooter a platform or fame – we're not broadcasting his rationalizations or finger pointing – but some of what he has to say – shines a light on the gap that cost an innocent young mom her life."

- We tried to take great care to avoid stigmatizing mental health while also reporting on
  government failures that opened the door to violent crimes committed by people with mental
  illness. We intentionally used person-first language and sought to reveal how the suspects with
  mental illness in these cases are often as much a victim of state failures as are those who were
  injured or killed. In Part three of this series we chose to tell the story of a murder on a
  downtown bus through the lens of the shooter's family who could only watch as the courts and
  mental health system failed their loved one.
- As we were in the middle of the reporting for part five of the series about how the courts and mental health system lost track of a severely mentally ill man facing numerous sex crime charges we faced perhaps our most difficult ethical decision. KARE 11's reporters located the missing man who had multiple warrants for his arrest that labeled him a threat to public safety. The man's own attorney described him as "a ticking time bomb." We were several weeks from being ready to publish our full report and now faced conflicting choices. Did we have an ethical obligation to notify law enforcement of the man's whereabouts given he's known to be sexually dangerous if so, how did that conflict with our role as journalists to be independent and not agents of the police? Again, the reporters consulted with station management and TEGNA's chief ethics officer. The decision was to immediately publish a report even though our full investigation was not ready detailing how and where we'd located the man. In this way we could notify law enforcement of his whereabouts for public safety reasons without being in partnership with them.

- Here is that report: https://www.kare11.com/article/news/investigations/kare-11investigates-accused-sexual-predator-severely-mentally-ill-lost-omar-isse/89-a16b69dd-6ea3-4dc1-a0ec-a1b97edb71ff
- Two hours after that initial report aired, police took the man into custody: https://www.kare11.com/article/news/investigations/kare-11-investigates-accusedsexual-predator-arrested-after-kare-11-report/89-7f9a9433-74af-4ed8-acbd-80be16983e9f

By shining a light with empathy and objectivity on issues and people too often ignored and holding institutions and those in power to account, KARE's investigation prompted potentially life-saving reforms.

We believe "The Gap: Failure to Treat, Failure to Protect" is an example of ethical investigative journalism in the public interest at its very best.

#### **Nominator:**

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## **Reporting Team:**

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### Link to landing page for full investigative series:

https://www.kare11.com/article/news/investigations/the-gap-failure-to-treat-failure-to-protect-fullseries/89-6025a36c-0a79-432e-b4be-b43dc7f5abef

Part 1: Mass shooting in Buffalo reveals deadly gaps in Minnesota's criminal and mental healthcare systems – as suspects declared incompetent in court fail to get treatment.

https://www.kare11.com/article/news/investigations/kare-11-investigates-the-gap-failure-to-treatfailure-to-protect-mental-health/89-b56dcfba-3016-407f-ba11-72819c671652

Part 2: Mentally ill, known to be dangerous, discharged anyway.

https://www.kare11.com/article/news/investigations/kare-11-investigates-mentally-ill-dangerousdischarged/89-58198a90-6c1e-46f3-a9cd-190aa20c06f1

Part 3: A judge ordered him to be held for treatment; he went home instead.

https://www.kare11.com/article/news/investigations/kare-11-investigates-gap-cases-bus-murder/89-3837fd52-1cec-4f17-8021-1531f47bee69

Part 4: Rapes, murders, assaults undercut DHS claim they release mentally ill suspects safely. https://www.kare11.com/article/news/investigations/rapes-murders-assaults-undercut-dhs-claimsuspects-safely-released/89-c6563366-634a-40d3-bb48-254aa09f53d2

Part 5: An accused sexual predator, a decade of safety net failures.

https://www.kare11.com/article/news/investigations/kare-11-investigates-an-accused-sexual-predatora-decade-of-safety-net-failures/89-3feff793-41f5-4a1b-91d0-9ac6d65bb854