Texas Workers Are Dying In The Summer Heat, And Companies Aren't Being Held Accountable

By David Nickerson, Julia Shipley, Stella M. Chavez & Sara Ernst, Columbia Journalism Investigations & The Texas Newsroom | September 7, 2021 10:00 am

Business & Your Money, Health & Science, Partner Organizations, The Texas Newsroom, Whole Shows



Lucio Vasquez / Houston Public Media

A Republic Services worker in Houston assists with garbage collection on a summer afternoon. The company has been fined in the wake of heat-related deaths of workers but says it has implemented prevention policies. This worker was not interviewed for the story.

Just before dawn on July 7, 2018, Karl Simmons stood outside a motel in Fort Worth, Texas, waiting for his supervisor to arrive. It was his second day of work with Austin-based Hellas Construction Inc. His wife remembers Simmons called her.

"It feel good for now, but I know the heat coming" he said, according to a deposition she gave last year.

By the end of the day, Simmons, 30, would be dead, a victim of heat stroke. He is one of 53 workers who have succumbed to the brutal Texas heat since 2010, according to an investigation by Columbia Journalism Investigations, National Public Radio and The Texas Newsroom, a collaboration among Texas public radio stations and NPR.

An analysis of federal data on worker heat deaths shows the state's tally has nearly doubled in the last 10 years compared to the previous decade; experts say the number of deaths reflected in the data almost certainly is an undercount.

The Texas casualties follow a national trend:

Many of the fallen were workers of color, like Simmons, who was Black. Most Texas workers were employed in construction, trash collection, mining and fossil fuel extraction. In the state, about a quarter of heat-related deaths occurred when the high temperature for the day exceeded 40-year historical averages, according to an analysis by CJI and NPR. More than three-quarters occurred on days where the high temperature was above 90 degrees Fahrenheit.

Hellas is among a dozen employers nationwide that have lost multiple workers to heat, the analysis shows. Five of these companies recorded deaths in Texas. At least two of the five, Hellas and Republic Services Inc., a trash-collection company, failed to take preventive measures agreed to in settlements with the U.S. Department of Labor following worker deaths. The agency's Occupational Safety and Health Administration slashed penalties against these companies even after the agreements were violated and additional workers perished.

Absent a national standard setting out precisely what must be done to prevent heat deaths, OSHA must rely on a 50-year-old regulation guaranteeing workers a "hazard free workplace." As a result, the agency has a hard time making violations stick, even against repeat violators, according to interviews with more than two dozen lawyers, experts and government officials and a review of thousands of pages of government and court records. OSHA uses mostly employer-education campaigns to

combat workplace heat, which have proven to be of limited value in preventing deaths.

In meetings and documents, OSHA officials explained the dangers of heat to Hellas executives after Simmons died. In the three months following his death, 11 Hellas employees were diagnosed with heat-related illnesses requiring medical attention, company records show. On July 19, 2019, another worker died.

Hellas declined to make key executives available for interviews for this story and did not respond to a list of 20 written questions. An OSHA spokesperson declined to make enforcement officials available to discuss the case but said the agency is attuned to the dangers of workplace heat. Candra Jefferson, an assistant regional administrator in OSHA's Region 6, which includes Texas and four neighboring states, said she believes most employers are receptive to OSHA's heat-awareness training. Inspectors regularly inform employers about best practices for creating a safe work environment, she said, and tell them, "Hey, maybe you should identify and control the heat hazards."

The region has a program called HOTDAYS, which offers heat-awareness training to employers. Under this program, inspectors are encouraged to visit outdoor job sites when workers are exposed to temperatures above 80 degrees.

Dean Wingo, a former assistant administrator in

Region 6, said such efforts would have little effect on a recalcitrant company.

"You see companies all the time that say 'Safety is our top priority,' which is a lie," he said.

Cause Of Death: Heatstroke



These soccer fields in Fort Worth's Gateway Park are where Karl Simmons was working when he collapsed in July 2018.
Stella Chavez / KERA

As he waited in the dark outside the motel, Simmons knew the temperature would soar that day. It was July in Texas, after all. And he soon learned that the job he and his brother-in-law Michael Spriggins, also a Hellas laborer, had been assigned — patching the soccer fields at Gateway Park, east of downtown Fort Worth, with a mixture of glue, gravel and rubber — would be grueling.

What the pair didn't know was how to protect themselves from the heat on a construction site. No one from Hellas told them, Spriggins would later testify.

By early afternoon, Simmons, who had been stirring the chemical blend with a shovel and a 5-foot-tall mixing machine, began complaining to his supervisor that he was feeling sick.

He sought shade in a work van after being given a break. But the inside of the van was sweltering.

Hellas was running out of water and Gatorade by mid-afternoon, Spriggins and another employee testified. Simmons left the van so the supervisor could drive to a nearby Walmart to restock.

A passerby later told Spriggins that a member of the work crew had collapsed. Spriggins found his brother-in-law convulsing on the ground beneath a tree on the far side of the field. Simmons's eyes had rolled back in his head and he was struggling to breathe. Blood was coming out of his nose. He was unresponsive.

No Hellas managers were present, so Spriggins called 911 around 4:40 p.m. He spoke to the operator as Simmons moaned in the background. Spriggins was told to grab a wet towel and place it on Simmons's head. When he did, Simmons's breathing steadied. He was rushed by ambulance to John Peter Smith Hospital, where at 6:10 p.m. doctors pronounced him dead. His body temperature registered 107.1

degrees — high enough to shut down internal organs such as the heart and kidneys. An autopsy listed the cause of death as heat stroke.

"It's Just Hot"

Karl Demarcus Simmons was born in Dallas on June 9, 1988. His mother, Janet, remembers him as a quiet guy who loved to crack jokes and debate with his family.

Simmons learned to play dominoes from his father and excelled at the game. He was an ardent fan of the Dallas Cowboys — whose home turf at AT&T Stadium was installed by Hellas. He loved to act and aspired to be the next Will Smith.

Instead, Simmons joined the Navy at 18 and was stationed for several years on the USS Ronald Reagan, a 4,000-sailor, nuclear-powered aircraft carrier that patrolled the Persian Gulf.

It was Simmons's job to secure the aircraft that landed on the carrier. Temperatures on the flight deck regularly exceeded 100 degrees. But the Navy knew how to handle the heat. Water and ice were regularly provided to the sailors. Simmons's friends from the Reagan said they were trained to look for signs of heat illness and given air-conditioned breaks about once an hour.

Simmons left the Navy in 2010 and attended Le Cordon Bleu College of Culinary Arts in California under the GI bill. He dropped out during his last semester and moved back to Texas, where he was unemployed for a time before landing jobs at

Budweiser and UPS. Around 2012, he met Precious Deshona Williams, whom he married in 2017.

Simmons and Spriggins heard about Hellas from a mutual acquaintance. In a phone call before they started, company president Reed Seaton promised them they would work "indoors, like inside domes," Spriggins testified in a deposition. Precious was skeptical, but Seaton reassured her on a speakerphone call that "we're going to make sure we take care of your husband," she said in a deposition. She was unconvinced. The travel associated with the job bothered her — she and Karl were raising two children — as did the strenuous nature of the work.

The men were to receive safety training their first morning — July 6, 2018 — but that never happened, Spriggins testified. Instead, they were dispatched to a job at Carroll High School in Southlake, Texas. Simmons called Precious from the hotel that evening. She recounted the conversation in her deposition: "I was like, 'How was your first day?' He's like, 'It's OK ... it's just hot.' I was like, 'Well, come home.' He was like, 'No, I'm going to try to stick it out.'"

At 5:50 the next morning, Vicente Ramirez, a Hellas superintendent, picked up Simmons and Spriggins at their hotel. He drove them and two other workers to Carroll High School; soon after, the crew was diverted to Gateway Park for the soccer-field patch job. There Simmons would crumple from the heat.

A Company's Empty Promises

Hellas, which calls itself a "one-stop solution for sports construction," was founded in 2003 by Seaton and Robert Allison, whose previous venture, Southwest Recreation Industries Inc. (SRI), filed for bankruptcy in U.S. Bankruptcy Court in Georgia in February 2004, court records show. By then, Seaton had resigned as SRI's president, though he remained on its board of directors. Allison still served as a vice president. According to the records, SRI owed creditors, including the Internal Revenue Service and a Navajo Nation school district in Arizona, more than $10 million. The debt was never paid.

Hellas says on its website that it has completed about 3,500 projects nationwide at schools, parks and other locations; many were publicly funded. The company reported revenue nearing $300 million in 2019.

Two days after Simmons died, Hellas's general superintendent and safety officer, Jason Davidson, visited Gateway Park, took photos and interviewed three members of the work crew. He asked them to write statements in a small notebook and shredded the pages, he testified in a deposition. He didn't mention the shredding to an OSHA inspector the next day, though he admitted in his testimony that the witness statements "probably" would have helped OSHA with its investigation.

There were other revelations in the deposition taken by Precious Simmons's lawyer, Anthony

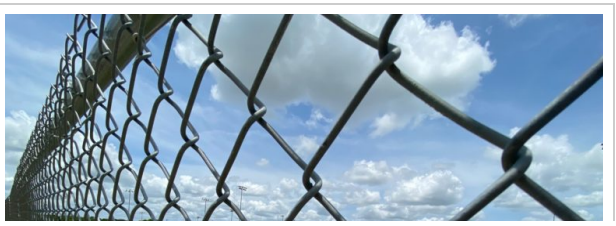
Farmer. OSHA's investigative report documented 14 cases of heat-related illness at Hellas over a 35-month period prior to Karl Simmons's death, Farmer noted. Davidson said he could recall none of the incidents specifically but was generally aware they had occurred. Pressed by Farmer, he agreed that the company safety manual forbade managers or other employees from acknowledging any safety violations during an OSHA investigation. He suggested the policy was meant to avoid giving OSHA misinformation, not to avoid violations.

Ramirez, the superintendent on the Gateway Park job, testified in a deposition that before the OSHA inspector arrived on site, he had been asked to buy gear that would help prevent heat illnesses, including tents and a cooler. "The bosses just wanted us to go get everything new," he said.

OSHA cited Hellas for two violations in connection with Simmons's death and proposed a fine of $14,782 — about $3,000 more than the average for a worker heat death in Texas.

Hellas paid $12,934 and agreed to launch an acclimatization program for new employees, provide training on the dangers of heat illness and ensure its crews had ample water and cool rest areas.

These were empty



promises. On July 19, 2019 — one year and 12 days after Karl



rack and field located in Hondo, Texas, where Bruno Martinez was working and became overheated. He was rushed to the hospital and pronounced dead hours later. Stella Chavez/KERA

Simmons's death — Pedro Martinez and his son left their hotel room in Hondo, Texas, about 40 miles west of San Antonio. They went to McDowell Middle School, part of the Hondo Independent School District, where they worked alongside other Hellas workers constructing a track and field. The younger Martinez, who was also named Pedro but went by the nickname "Bruno," was a 22-year-old college student from Mexico. He got the job through a family friend, according to his father, who already worked for the company.

On his third day at the school, Bruno started to feel sick in the 99-degree heat. Combined with humidity, it felt like 118 degrees.

Records show Bruno toiled for 10 hours before taking a lunch break at 4 p.m. An OSHA inspector would later confirm there was little shade, and would later identify a blue ice chest that held only a few bottles of water, along with some cans of

Red Bull and green tea, which contain caffeine and are dehydrants.

Around 5:45 p.m. Bruno became overheated and ran off, hit a fence and collapsed. His father rushed him to Medina Regional Hospital, where his core body temperature registered 108 degrees. Hospital workers placed ice packs around his body.

It was too late. Bruno was pronounced dead at 7:29 p.m., according to a police report. A police officer summoned to the hospital said the young worker's body was still hot to the touch hours later.

A Struggle To Make Violations Stick



Bruno Martinez (right), stands with his mother, his father, and his younger brother. The undated family portrait was part of the case file in the family's

OSHA initially proposed a $132,598 penalty against Hellas for Bruno's death. It suggested the citation be classified as "willful," which would have landed Hellas on a public list of recalcitrant companies.

Hellas challenged the citation, arguing that OSHA failed to meet the

> wrongful-death lawsuit.
> Alberto Garcia, the family's lawyer

burden of proof for a willful violation: that an employer either flouted the law or acted with "plain indifference" to worker safety.

In January 2020, the case was referred to the Occupational Safety and Health Review Commission, which adjudicates appeals of OSHA citations. Three months later, after a settlement approved by the commission, the Labor Department agreed to cut the fine to $66,300 and downgrade the citation from one willful violation to five "serious" ones. This, in turn, kept Hellas off the repeat-violator list.

Wingo, the former OSHA manager, said the agency struggles to make willful violations stick because there is no federal heat standard. Adopting one could even increase financial penalties and open the door to criminal prosecution.

Indeed, judges with the review commission cited the lack of a science-based standard in recent worker heat-exposure cases filed against two companies. The commission sided with both employers; one of them, the United States Postal Service, has six recorded worker heat deaths since 2012.

In a March 2021 letter sent by the Martinez family's lawyer to Hellas, Pedro Martinez alleged

that three days after his son's death, corporate managers in Austin offered him and his wife $40,000 if they agreed not to sue the company. They declined and filed a wrongful-death lawsuit against Hellas in Travis County District Court on July 30, 2019, accusing the company of negligence for failing to protect Bruno "from the health hazards posed by the extremely dangerous heat." In court records, Hellas denied its conduct was negligent and claimed that the case should be resolved through workers compensation insurance. The case is pending.

On August 20, 2019, a day after the elder Martinez was interviewed by an OSHA investigator, Hellas sent him a termination letter. The company accused him of lying to management and helping his son fill out a Hellas application using a false Social Security number. Hellas threatened to sue Martinez for "all damages that have resulted from your actions," as Martinez and his wife were in Mexico, burying their son.

Both Bruno and Simmons died while OSHA's regional HOTDAYS program was in effect. The program encourages inspectors to proactively inspect workplaces where workers are visibly exposed to excessive heat, but none appeared at the sites where Bruno and Simmons worked on the days they died.

The temperature threshold for HOTDAYS inspections was lowered from 105 degrees in fiscal year 2018 to 80 degrees in FY 2019. But

the number of inspections under the program declined from 105 to 78 over that two-year period and the number of violations cited fell by 44%. Many of these were related to hazards tangential to heat, such as falls and unstable scaffolds. In the absence of a federal heat standard, inspectors must find creative ways to cite employers.



Rhonda McCarthy is an occupational health physician who ran a successful heat-illness prevention program in Waco. She says plenty of water, extra breaks and a buddy system can help prevent heat deaths.
Stella Chavez/KERA

Dr. Ronda

McCarthy, an occupational health physician who ran a successful heat-illness prevention program in Waco, Texas, said that while many factors can contribute to an individual worker's demise, plenty of water, extra breaks and a buddy system can prevent deaths such as Bruno's and Simmons's.

McCarthy's program lowered the rate of heat-related illnesses among Waco's municipal workers from 27 per 1,000 people in 2009 to zero in 2016 and 2017.

A federal heat standard, she said, "would save countless lives."

Cause Of Death: Hyperthermia

Hellas Construction isn't the only employer that's recorded multiple worker deaths in Texas. On May 24, 2004, Theon Harrison, a 22-year-old Black man, started working for Republic Services, a multibillion-dollar waste-disposal company with 36,000 employees around the nation.

Harrison was assigned to a Republic Services trash truck in Humble, Texas, northeast of Houston. By his second day on the job, Harrison struggled to finish his 13-hour workday in the 86-degree heat.

In a deposition, his driver said Harrison was sluggish and suffered from cramps because of the heat. She told a Republic Services operations manager that Harrison couldn't handle the job. But he was allowed to begin his shift the following day at 7 a.m.

Around 11:30 a.m., Harrison complained of feeling dizzy, according to OSHA records. But his driver, Kenneth Edmonson, did not recognize that as a symptom of heat illness, according to Edmonson's deposition testimony. He told Harrison to get into the cab of the truck even though Edmonson had turned off the air-conditioner.

As Harrison sat in the cab, Edmonson stopped at a restaurant to buy chicken for lunch. He advised Harrison to not drink too much water, mistakenly believing it could cause cramps, Edmondson

testified. The suggestion was based on personal experience, Edmondson said in his deposition, not any Republic Services policy.

By 3 p.m., Harrison was lethargic and in pain. The other trash loader assigned to the truck, Wilfredo Altamirano, said Harrison "kept acting as if he had lost his mind." At one point he mumbled incoherently and tried to take control of the truck. Eventually, he fell unconscious. Edmonson called the lead Republic Services driver, Pedro Gonzalez, to come check on Harrison, but continued working as Harrison remained unconscious. By the time they finished the route, foam was dribbling from Harrison's mouth.

Around 4:30 p.m., Gonzalez took Harrison to a fire station instead of calling 911. A firefighter came out of the station and began administering oxygen. An ambulance was called, and Harrison was rushed to Lyndon B. Johnson Hospital, where he was pronounced dead at 5:37 p.m. His core body temperature was 108 degrees. The cause of death was hyperthermia.

Republic Services declined to make key executives available for interviews and did not respond to a list of 16 written questions. In a statement, the company said it would not discuss "details of specific litigation and incidents that occurred years ago." It said it believed "unique factors" contributed to heat-related deaths among its workers.

"The safety of our employees is of paramount importance to Republic Services and our affiliate companies," the company said.

In depositions, company managers acknowledged that it took at least four hours for Harrison to receive medical attention after he began to show signs of heat stroke.

Theodore Meyer, the Republic Services general manager who oversaw the facility where Harrison was based, testified that he interviewed driver Edmonson after the incident and concluded he had acted appropriately. Edmonson kept his job. Meyer, who retired from the company in December 2005, could not be reached for comment.

OSHA investigated Harrison's death and imposed a penalty of $5,000 against Republic Services after the company agreed to develop a program to help new workers acclimate to the heat and take other preventive measures.

During a follow-up inspection by OSHA, a Republic Services representative said the company had begun placing new employees on shorter routes. When the OSHA inspector interviewed drivers, they laughed and said there was no such policy.

A follow-up report by OSHA found that Republic Services had fully implemented only four of eight agreed-upon safety measures following Harrison's death. The company was fined

$17,500 in 2006. A lawsuit brought against Republic Services by Harrison's family went to trial in August of that year. After three days of testimony, a jury returned a unanimous, $11.1 million verdict for the family. The company appealed the verdict, and the parties ultimately reached a settlement, the terms of which are confidential.

"Not Trained For Situations Like That"



A worker for Republic Services, a multi-billion dollar waste disposal company, dumps trash from a neighborhood bucket into a collection truck. Federal records show that 13 Republic Services workers were hospitalized for heat illnesses between 2015 and 2020. Lucio Vasquez / Houston Public Media

But the heat problem at Republic Services wasn't resolved. On June 5, 2013, another Black worker in Houston, Glenn White, became fatally ill on his third day on the job, OSHA records show.

White's brother, Matthew, said in a deposition that Glenn would come home exhausted after his shift and "drink water like never before." Glenn told him his driver deprived him of water because "it was like an initiation," Matthew testified.

The morning of June 5, Glenn White was dispatched as the only trash loader on an arduous route workers called "The Beast." It was a Wednesday, the heaviest trash day of the week. OSHA estimated White lifted 20 tons of trash during his nearly 10-hour shift. That day, the temperature climbed to 91 degrees.

White's driver, Roberto Cruz, said in a deposition that he and other Republic Services employees warned his supervisor that dispatching only one loader per truck was too difficult. But their warnings went unheeded. "Maybe the company doesn't want to pay more [workers]," Cruz testified. While on his route, White complained of feeling sick but was allowed to continue working in an old truck with weak air conditioning.

Around 4:30 p.m., White walked down a cul-de-sac and collapsed. Cruz discovered him, knocked on the door of a nearby house and asked the occupant to call 911.

"I'm not trained for situations like that," Cruz testified. He alleged that Republic Services did not train him on how to identify the symptoms of heat illness or how to provide first aid. The year before White's death, Cruz took 17 days off because of a job-related heat illness. Company

safety managers confirmed in depositions that drivers are not trained in first aid, but said Cruz had received some training on signs of heat illness.

In its statement, Republic Services said the company has had a heat-illness-prevention policy in place since 2009. Called "101 Days of Summer," it provides employees with water and encourages them to take frequent breaks, find a shaded area when experiencing heat symptoms and avoid caffeine, among other things.

Cruz testified that he saw "101 Days of Summer" posters plastered around the work site. But the company's training remained inadequate, he said.

Approximately eight minutes after the 911 call, White was taken by ambulance to West Houston Medical Center, where he died four days later. Republic Services did not report his death to OSHA, according to agency documents, a violation of regulations. White's family said they were not informed he was in the hospital for at least a day.

Tim Woods, a former Republic Services safety supervisor who in 2016 left for another company owned by Republic Services, told OSHA investigators he didn't report or investigate White's death because White was a temporary laborer employed by a staffing agency. An OSHA inspector wrote that Woods "continued to display attitudes… at times borderline unprofessional" toward OSHA staff. Woods

agreed to respond only to written questions from CJI and The Texas Newsroom, but then declined to comment, saying he "didn't see any value" in answering them.

While interviewing Republic Services employees, OSHA investigators discovered what they described as "a large number" of heat illnesses that were not reported or investigated by the company. In one case, a driver had to pull a truck into someone's yard and use a garden hose to cool down an overheated co-worker.

OSHA agreed to lower its initial penalty of $20,000 for White's death to $7,000 after Republic Services challenged the case before the Occupational Safety and Health Review Commission. Under a settlement agreement, Republic Services promised to train workers on first aid, hire a consultant to evaluate the company's heat-safety protocols and periodically observe workers on routes to make sure updated policies were being followed.

As of November 6, 2015, six months after the agreement took effect, Cruz testified, no new heat-stress policies had been implemented, he was still not first-aid certified and trash loaders were still being dispatched alone on difficult routes.

The year White died, Republic Services noted in corporate filings that increased average temperatures fueled by climate change could interfere with its trash-collection operations. The

average high temperature on the block where White passed out in southwest Houston has increased by about 2 degrees since the 1980s, according to a CJI and NPR analysis.

During on-the-street interviews in August, two Republic Services workers confirmed that hot temperatures are a reality on the job. "Oh it's crazy, it's real hot," one worker said. The same worker noted that Republic Services gives its current employees allotted breaks and summer uniforms to try to combat the Houston heat. It also provides air conditioning and an ice chest stocked with water on its trucks.

Federal records show that 13 Republic Services workers nationally were hospitalized for heat illnesses between 2015 and 2020. In 2010 — after Harrison's death and before White's — Charles Murray, a Black trash-can washer and sorter in Georgia, died of heat-related illness. His body temperature had reached 109 degrees.

"Don't Like Talking About It"

Five days after Karl Simmons died in Fort Worth, Reed Seaton, president of Hellas Construction, mailed Precious Simmons a $10,000 check. "Was it your intent for Mrs. Simmons to go away after you paid her off?" Farmer, her lawyer, asked Seaton in a deposition. "I didn't pay her off," Seaton replied. He insisted he was trying to help Precious weather a "tragic event." But Spriggins saw the payment as a "bribe" to try to prevent a lawsuit, he testified in a deposition. Precious

returned the money in a cashier's check to Seaton in May of 2019 and filed a wrongful-death lawsuit against Hellas in Tarrant County District Court that July. Court records show a judge approved a $950,000 settlement in the case on June 30 of this year.

Her husband's death had effects on Precious both immediate — she passed out at the hospital the day he died — and long-term. She all but stopped talking for several months. "I stayed in my room," she testified in her deposition. "My sister made sure my kids was fed and bathed and stuff. I didn't get out of the bed to take a bath. I was just in bed, quiet." At the time her testimony was taken in February 2020, she was still avoiding crowds and conversation. "I don't feel like interacting with people and [answering] a ton of questions because I still wear ... [Karl's] ring around my neck," she said. "I just don't like talking about it."

In a telephone interview, Janet Simmons, Karl's mother, said she could not eat the week he died, and the family quit playing dominoes and fishing, two of Karl's favorite pastimes. July 4 goes uncommemorated — too close to the anniversary of Karl's death.

Janet, who lost a newborn daughter many years ago, often fights back tears to speak about Karl, whom she knew as KJ.

"I'm tired of burying children," she said. "I ask God to let me go **...** before my next child leaves

the face of this earth."

David Nickerson and Julia Shipley reported this story as a fellow for Columbia Journalism Investigations, an investigative reporting unit at the Columbia Journalism School in New York. Stella Chavez reports for KERA North Texas and Sara Ernst for Houston Public Media, part of The Texas Newsroom. Robert Benincasa, a senior data reporter at NPR, and Cascade Tuholske, a climate impact scientist at Columbia University's Earth Institute, contributed to the data analysis. Fernanda Camerena, a senior editor at The Texas Newsroom, Kristen Lombardi, the investigative editor at CJI, and Jim Morris, the editor-in-chief of the nonprofit newsroom Public Health Watch, helped produce this story.

This story was supported by the Fund for Investigative Journalism.

If you found the reporting above valuable, please consider making a donation to support it here. Your gift helps pay for everything you find on texasstandard.org and KUT.org. Thanks for donating today.