

Report to the Legislature

Forensic Admissions and Evaluations – Performance Targets 2014 Third Quarter (July 1, 2014-September 30, 2014)

Senate Bill 6492, Chapter 256, Laws of 2012, Section 2(3)
As codified in RCW 10.77.068

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EXECUTIVE SUMMARY

In Washington State, forensic mental health services are provided within heightened security facilities at two adult state psychiatric hospitals. The Center for Forensic Services is a 270 bed facility at Western State Hospital (WSH). The Forensic Services Unit at Eastern State Hospital (ESH) has a total of 95 beds.

Roughly sixty percent of the available forensic beds are devoted to serving persons determined Not Guilty by Reason of Insanity. The remaining beds (120 at WSH and 25 at ESH) are dedicated to pre-trial competency services, which are the focus of this report.

On May 1, 2012, RCW 10.77 was amended by Substitute Senate Bill 6492, Chapter 256, Laws of 2012. The amendment added a new section to the statute, cited below:

Sec. 2. A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) The legislature establishes the following performance targets for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient services related to competency to proceed or stand trial for adult criminal defendants. The legislature recognizes that these targets may not be achievable in all cases without compromise to quality of evaluation services, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy of competency evaluations, and to otherwise make sustainable improvements and track performance related to the timeliness of competency services:

- (i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial, seven days or less;*
- (ii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody, seven days or less;*
- (iii) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, twenty-one days or less.*

(3) Following any quarter in which a state hospital has failed to meet one or more of the performance targets in subsection (1) of this section after full

implementation of the performance target, the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report must be made publicly available. An average may be used to determine timeliness under this subsection.

As mandated by RCW 10.77.068(3), the following quarterly report explains the extent to which the hospitals deviated from performance targets in Quarter 2 of 2014 (April 1, 2014-June 30, 2014), and describes the hospitals' plans to meet these performance targets.

COMPETENCY EVALUATION AND RESTORATION DATA

RCW 10.77.068(1)(a)(i) establishes a performance target for the state hospitals to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial in seven days or less. Figure 1 below shows results for competency evaluation cases. Figure 2 shows results for competency restoration cases.

Figure 1

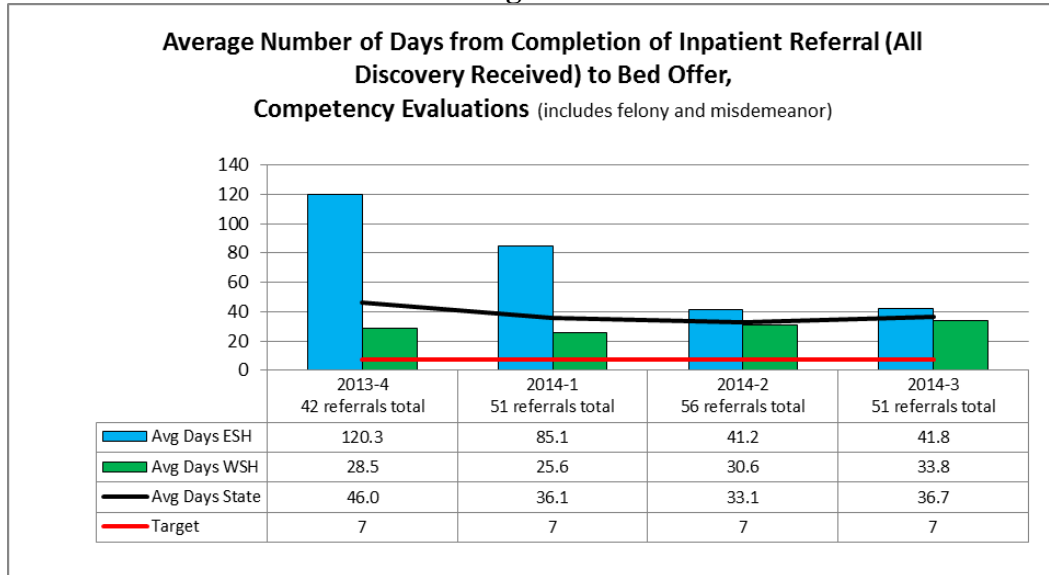
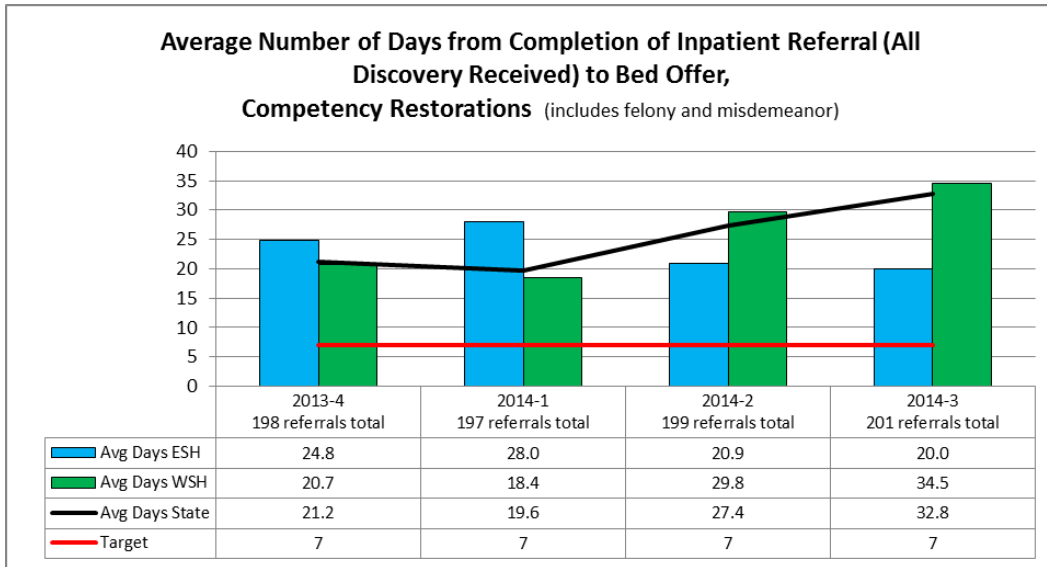
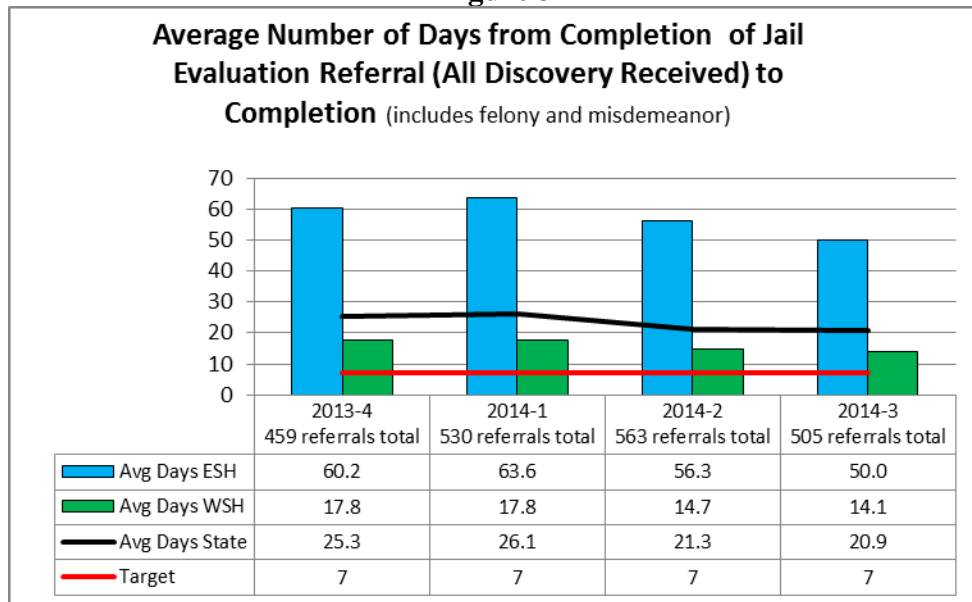


Figure 2



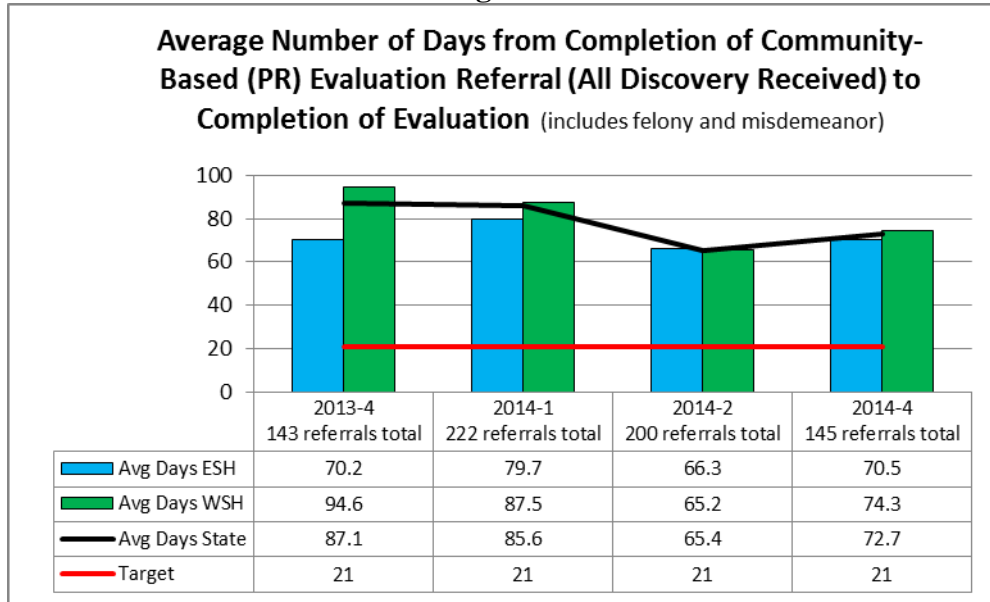
RCW 10.77.068(1)(a)(ii) sets a performance expectation that competency evaluations for a defendant who is in jail will be completed and distributed within seven days or less. Figure 3 shows results for this reporting period.

Figure 3



RCW 10.77.068(1)(a)(iii) sets a performance expectation that competency evaluations for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation will be completed and distributed within twenty-one days or less. Figure 4 shows results for this reporting period.

Figure 4



DISCUSSION OF RESULTS

The data displayed above reflects some modest progress over the past year. However, the charts above clearly show that results to date are far below desired levels.

The department is fully committed to the goal of improving the timeliness of forensic mental health services. As noted in the department’s March 31, 2014 response to the JLARC report, additional resources will be needed to meet JLARC’s and the legislature’s expectations. Per 2SB 5732 (2013), DSHS engaged national consultants to conduct a comprehensive review of the forensic mental health system. The June 30, 2014 consultant report noted that while “*Washington faces significant challenges....Washington also appears to have a competent workforce who clearly recognize these challenges, and appear motivated to approach them constructively*” (Forensic Mental Health Consultant Report, page 55). The report also states (page 8) “*The feedback we received from almost every source described positively the COOs (sic) of Western and Eastern Hospital, as well as central office leadership. Indeed, it is a testament to these individuals that the system is not more problematic.*” In their conclusions, the consultants state

that “almost any of the recommended changes will require resources...” (page 55).

A. Barriers to higher performance and what DSHS is doing to address them:

1. *Need for more forensic beds at state hospitals*

In the Joint Legislative Audit and Review Committee (JLARC) Competency to Stand Trial, Phase 1 Briefing Report (2012), it was noted that between 2001 and 2012, referrals for initial competency evaluations increased by 83%. In just the past three years there has been a 30% increase in the number of forensic competency referrals (723 referrals in 2011 Quarter 1, compared to 937 referrals in 2014 Quarter 1). However, there have been no new forensic beds added at either state hospital since 2005. The shortage of forensic hospital beds directly limits DSHS’s ability to admit patients in a timely manner resulting in a continual waiting list for beds.

DSHS Action: Submitted a Decision Package proposing to add 15 forensic beds at ESH and establish one additional 30 bed forensic ward at WSH dedicated to Competency Restoration.

2. *Need for greater availability of evaluators*

As noted in the Forensic Mental Health Consultant Review Final Report, Washington State’s forensic mental health system needs more evaluators and fewer logistical hurdles for evaluators to overcome (e.g. travel; timely receipt of needed discovery documents; need to expand the number of locations where evaluations can be conducted; etc.).

DSHS Action: Submitted a Decision Package requesting three FTE’s for forensic evaluator positions to be outstationed in counties with high referral rates.

3. *Lack of centralized infrastructure to support effective data management*

Historically, data has been managed separately at each state hospital. There has not been capacity for centralized data gathering and analysis.

DSHS Action: Filled a newly established position specifically assigned to improving hospital data management. This position is focused on collecting and analyzing data from all three state hospitals so that it can be presented in a uniform manner. This position will ensure consistency

between the state hospitals' data collection and analysis. This position will be accountable for the consistency and accuracy of all data for legislative reports, legislative requests, and will create uniform databases specific to required forensic data collection.

4. *Need for improved cross-system collaboration*

As noted in the consultant group's final report, timeliness of competency services is impacted by multiple systems outside of the state hospitals and DSHS (courts, jails, community mental health systems and others). Therefore sustainable improvements will require cross-system partnerships.

DSHS Action: In collaboration with the Attorney General's Office, DSHS has initiated a series of meetings with county-level stakeholders to jointly develop strategies to improve timelines of competency services. To date, meetings have been held at courthouses in Snohomish, Benton-Franklin, King, Pierce and Thurston counties. Participation has included judges, defense counsel, prosecuting attorneys, Assistant Attorney Generals, law enforcement, jail staff, and DSHS leadership. Follow up meetings are planned with the above named counties to address training, information sharing, and development of local improvement strategies. Over the coming year, meetings with other counties will also be convened to promote local strategy-building conversations.

B. Actions planned for the coming year

1. *Develop standardized training for evaluators*

As recommended in the consultant report, DSHS will be developing and implementing an organized system for ongoing, standardized training of forensic evaluators. DSHS will also be working to establish a distinct job class for forensic evaluator psychologists. This proposed new job class is included in the 2015-2017 Collective Bargaining Agreement negotiated in October of this year, and now at OFM for review. This forensic evaluator job class will receive a higher rate of pay than other state employed psychologists; be required to complete the standardized training; and participate in ongoing quality assurance programs to ensure quality of forensic evaluations.

2. *Consider Options for Outpatient Restoration*

DSHS continues to seek support for more inpatient resources. And, our staff continually strive to find creative ways to increase the timeliness of

competency restoration services at the state hospitals. However, all of this is being done within a system where state hospitals are the sole provider of competency restoration services. The 2014 Consultant report describes how other states use community locations to provide “Outpatient Competency Restoration Programs” (OCRPs) for appropriate patients to effectively increase hospital bed turnover, save money and respect civil liberties of defendants without compromising public safety. The Consultant report strongly recommends that Washington State implement OCRPs to reduce demand for inpatient hospital beds.

DSHS has submitted request legislation to allow for competency restoration services to be provided within secure/semi-secure facilities or other community-based settings. DSHS has had follow up conversations with the consultant team to discuss this idea further and has also initiated conversations with colleagues in Colorado to learn from their experience with OCRPs. Over the next year, DSHS will engage stakeholders to explore possibilities for implementing OCRPs here in Washington, likely with the idea of a starting with small, targeted pilot programs.

3. Continue stakeholder meetings across the state (as described above) to find local solutions to improving timeliness of forensic mental health services.

4. Increased use of Technology

Both hospitals are exploring the possibility of video-conferencing as a way to reduce travel time for in-jail evaluations. Research suggests telemedicine can be reliable and effective. Grays Harbor County Detention Center has been identified as a potential pilot site, as they are already using telemedicine to serve the mental health needs of inmates.