

**REPORT TO THE LEGISLATURE**

**Timeliness of Services Related to Competency to  
Proceed or Stand Trial 2019 Annual Report  
October 1, 2018 – September 30, 2019**

Substitute Senate Bill 6492, Section 2(4),  
Chapter 256, Laws of 2012

December 1, 2019

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## Contents

BACKGROUND .....	3
COMPETENCY EVALUATION AND RESTORATION DATA.....	6
DATA ANALYSIS AND DISCUSSION .....	7
SECTION 1: STATEWIDE FORENSIC SYSTEM DATA .....	8
SECTION 2: COUNTY FORENSIC SYSTEM DATA.....	14
COUNTY LEVEL RESULTS .....	14
SECTION 3: ACTIONS TAKEN .....	23
1. Building workforce .....	23
2. Expanding bed capacity .....	24
3. Decreasing demand for competency services .....	24
NEXT STEPS .....	25
SUMMARY .....	25

## **BACKGROUND**

Substitute Senate Bill (SSB) 6492 (Chapter 256, Laws of 2012), was enacted by the 2012 Legislature to improve the timeliness of competence evaluation and restoration services. In particular, Section 2(4)<sup>1</sup> of that law states the following:

*Beginning December 1, 2013, the department shall report annually to the legislature and the executive on the timeliness of services related to competency to proceed or stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.*

This 2019 annual report provides data on the timeliness of competency to stand trial services during the reporting period from October 1, 2018 through September 30, 2019. DSHS is making every effort to provide competency services within the state's standards.

In April 2015, the U.S. District Court found that waiting times for competency to stand trial services violate the substantive due process rights of criminal defendants, and established 7-days as the maximum justifiable period of incarceration absent an individualized finding of good cause. DSHS appealed the 7-day evaluation deadline to the 9th Circuit Court of Appeals for in-custody evaluations only. The results of this appeal from the 9th Circuit Court of Appeals was for the in-custody evaluations to be completed within 14-days of court order signature.

In response, the Legislature appropriated funding to address the court's findings. With that funding, DSHS:

- Acquired the services of a full-time professional recruiter from the DSHS Headquarters Human Resource Division (HQ HRD) Talent Acquisition group.
- Filled leadership and management positions for the BHA Office of Forensic Mental Health Services (OFMHS).

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<sup>1</sup> Section 2 of that law, which was codified as RCW 10.77.068, established performance targets related to evaluating competence and offering restoration services. RCW 10.77.068 also defined the time period measured in these performance targets as the date on which the state hospital receives the court referral and charging documents, discovery, and criminal history information related to the defendant. RCW 10.77.068 was subsequently amended during the 2015 regular session by Section 1 of Substitute Senate Bill (SSB) 5889 (Chapter 5, Laws of 2015). That law retained the seven-day performance targets for completion of competency to stand trial (CST) services, and also established maximum time limits for the completion of those services, which are to be phased in over a one-year time period beginning July 1, 2015.

- Worked with the Maple Lane project team to identify, recruit, assess and hire 24 residential rehabilitation counselors, 13 security guards and 3 maintenance technicians. Maple Lane was staffed within five weeks and opened on schedule in April 2016.
- Identified and assessed over 60 applicants for forensic evaluator and evaluator supervisor positions. Thirteen new forensic evaluators were hired.
- Finalized negotiations with the Center for Medicare and Medicaid Services to enter a 13-month Systems Improvement Agreement (SIA) to allow Western State Hospital (WSH) the time and guidance needed to fix systemic operating problems and to put more focus on patient treatment and overall safety.
- Implemented the WSH emergency hire project.
- Opened 54 competency restoration beds in the state's first two competency restoration residential treatment facilities by July 2016.
- Opened 15 new forensic beds at WSH in April 2016 and 27 forensic beds at Eastern State Hospital (ESH) in May 2016.

In Washington state, prior to 2016, forensic mental health services are provided within heightened security facilities at two adult state psychiatric hospitals. By September 30, 2016, the Center for Forensic Services provided 284 forensic beds at WSH with 120 beds at WSH designated as pre-trial evaluation, restoration, and forensic-to-civil conversion beds. The remaining forensic beds house individuals who were found not guilty by reason of insanity (NGRI).

On September 30, 2016, the Forensic Services Unit at ESH had a total of 125 beds with 55 of those beds designated for pre-trial evaluation and treatment forensic beds. The remaining forensic beds were almost at capacity with individuals who were found NGRI.

During spring and summer 2016, 54 total beds were opened in two residential treatment facilities providing restoration treatment. Thirty beds were opened at Maple Lane (Centralia, WA) and 24 beds were opened in Yakima. These additional beds were opened to help manage the state's waitlist for inpatient services. In August 2019, a third residential treatment facility, Fort Steilacoom Competency Restoration Program (FSCRCP) was opened to provide 30-beds for restoration treatment in a separate facility on WSH's campus.

Insufficient improvements in wait times for competency services, as required by the April 2015 Trueblood decision, resulted in a contempt of court finding for the department. The department and plaintiffs agreed to a contempt settlement agreement that was court approved in December 2018. Court approval of the settlement's final implementation plan occurred in late June 2019, in time to allow Phase 1 of the agreement to start implementation concurrent with the state's 2019-2021 budget biennium.

The Legislature continued to appropriate funding toward SSB 6492 as amended, the original April 2015 Trueblood decision as amended, and the newly approved contempt settlement agreement's final implementation plan. Several fiscal year 2020 funded programs began activities in Q3 2019 during the current reporting period, as indicated below:

- Began hiring the 13 new forensic evaluator positions authorized in fiscal year 2020.
- Assembled full technical assistance to jails and workforce development teams to provide technical assistance and training to jails and to support workforce development activities.
- Forensic navigator administrator continued work to design the navigator program and prepare it for a July 1, 2020 implementation.
- In partnership with the department, HCA prepared outpatient competency restoration services for implementation on July 1, 2020.

## **COMPETENCY EVALUATION AND RESTORATION DATA**

RCW 10.77.068(1)(a)(i)(A) and (ii)(A), as amended by SSB 5889, established a performance target of seven days or less for the state hospitals to:

1. Extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency; or
2. Extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial.

RCW 10.77.068(1)(a)(iii)(A), as amended by SSB 5889, set a performance expectation that competency evaluations for in-custody defendants will be completed and distributed within seven days or less.

RCW 10.77.068(1)(a)(iv), as amended by SSB 5889, set a performance expectation that competency evaluations for defendants, who are released from custody and make a reasonable effort to cooperate with the evaluation will be completed and distributed within 21-days or less.

## **DATA ANALYSIS AND DISCUSSION**

In this section, the report is organized in the following manner: (1) statewide forensic system data (2) county forensic system data and (3) actions taken.

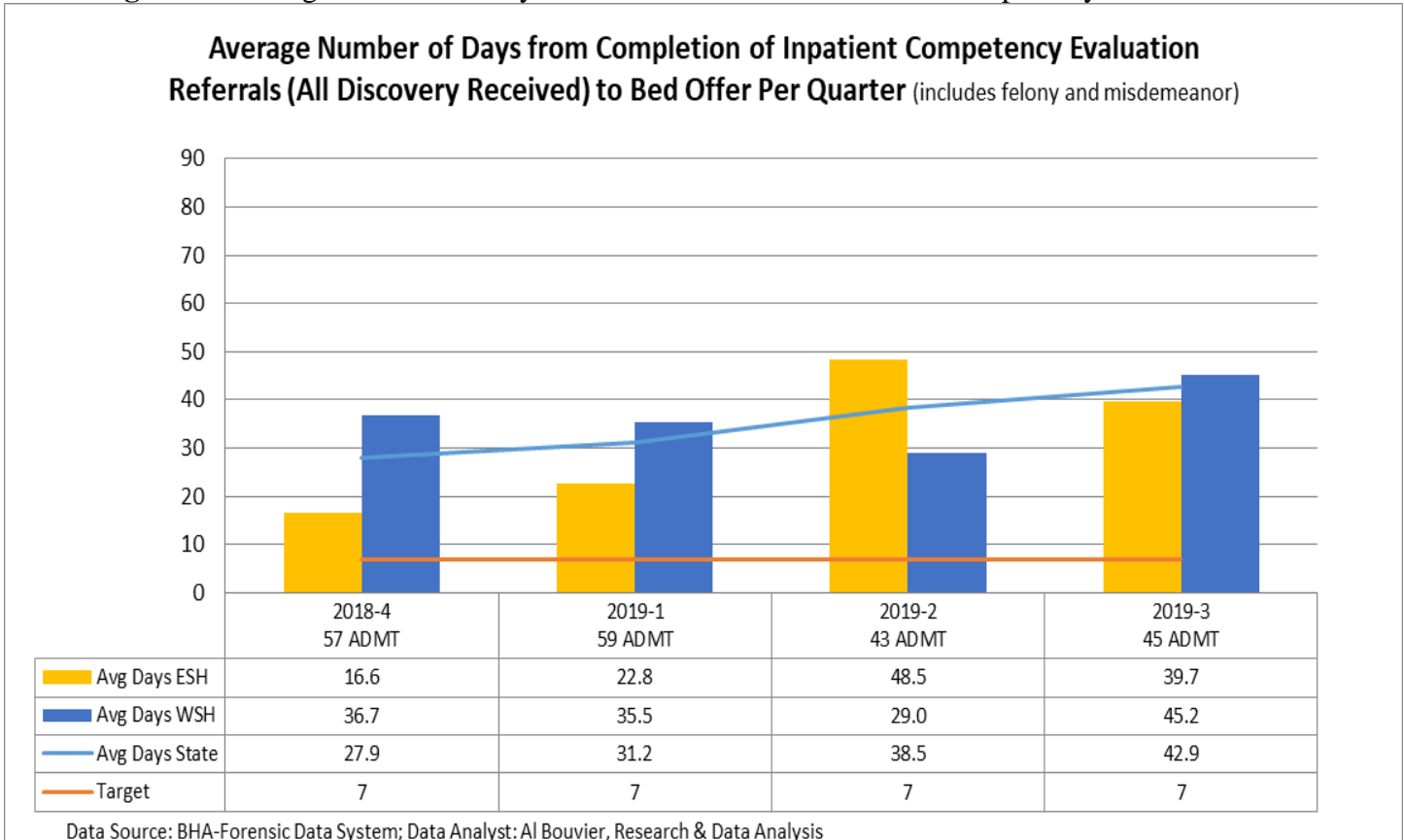
Additional detailed data and information about timely competency services is available in monthly reports published by the Department of Social and Health Services in compliance with requirements established in the April 2015 Trueblood court order. These reports are available at:

<https://www.dshs.wa.gov/bha/trueblood-et-al-v-washington-state-dshs>

Please note that the data presented in this report differs slightly than the data published in the Trueblood reports. State statute begins the count for timely service at the date of receipt of discovery, while the Trueblood court order begins the count at the date the court order for services is signed. On the following pages, Figures 1-4 present the statewide forensic system data.

## SECTION 1: STATEWIDE FORENSIC SYSTEM DATA

**Figure 1:** Average Number of Days from Referral to Bed Offer for Competency Evaluation



**Data Notes:**

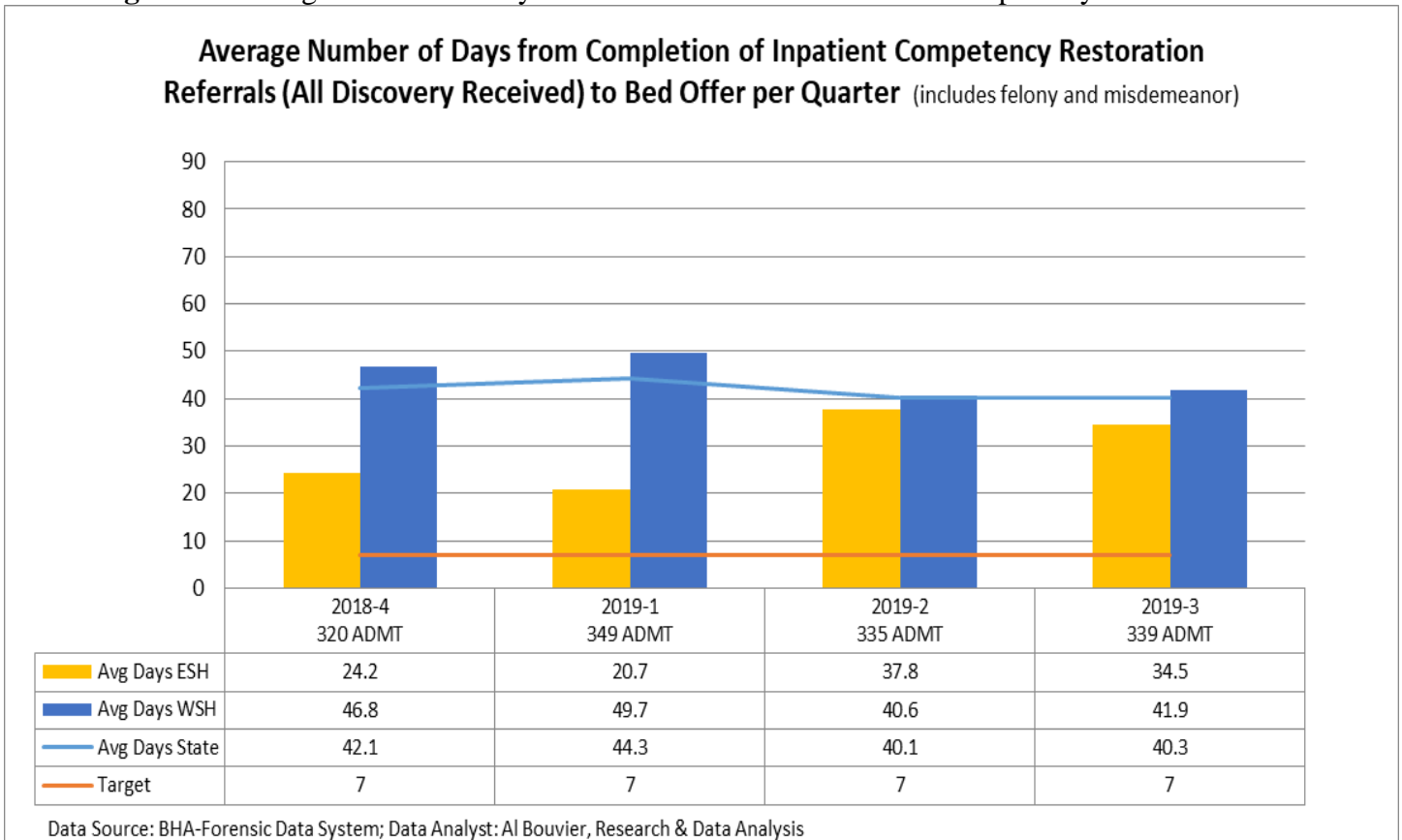
- 1) Due to limitations of the data system at Eastern State Hospital, some previous quarters may have included both competency and non-competency referrals.
- 2) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 1.** Represents the wait times related to hospital admission for inpatient competency evaluations including defendants released on Personal Recognizance (PR).
- **Outcomes:** During the reporting period, WSH experienced a fluctuation in average wait times that initially declined more than 20 percent over three quarters before more than erasing the improvement with a 35 percent increase over the final quarter of the Q4 2018 through Q3 2019 reporting period. ESH experienced an upward trend nearly tripling average bed offer wait times in the first three quarters before settling down into an overall 240 percent increase in average days from inpatient evaluation completion to bed offer.



- **Drivers:** The two predominant drivers here are backlog build-up and seasonality. The backlog effect is the phenomenon of referrals usually outnumbering admissions, month-by-month, creating a steady accumulation of people on the waitlist that increases average wait time. Seasonality is typically reflected as increased referrals going from winter into spring and summer.

**Figure 2: Average Number of Days from Referral to Bed Offer for Competency Restoration**

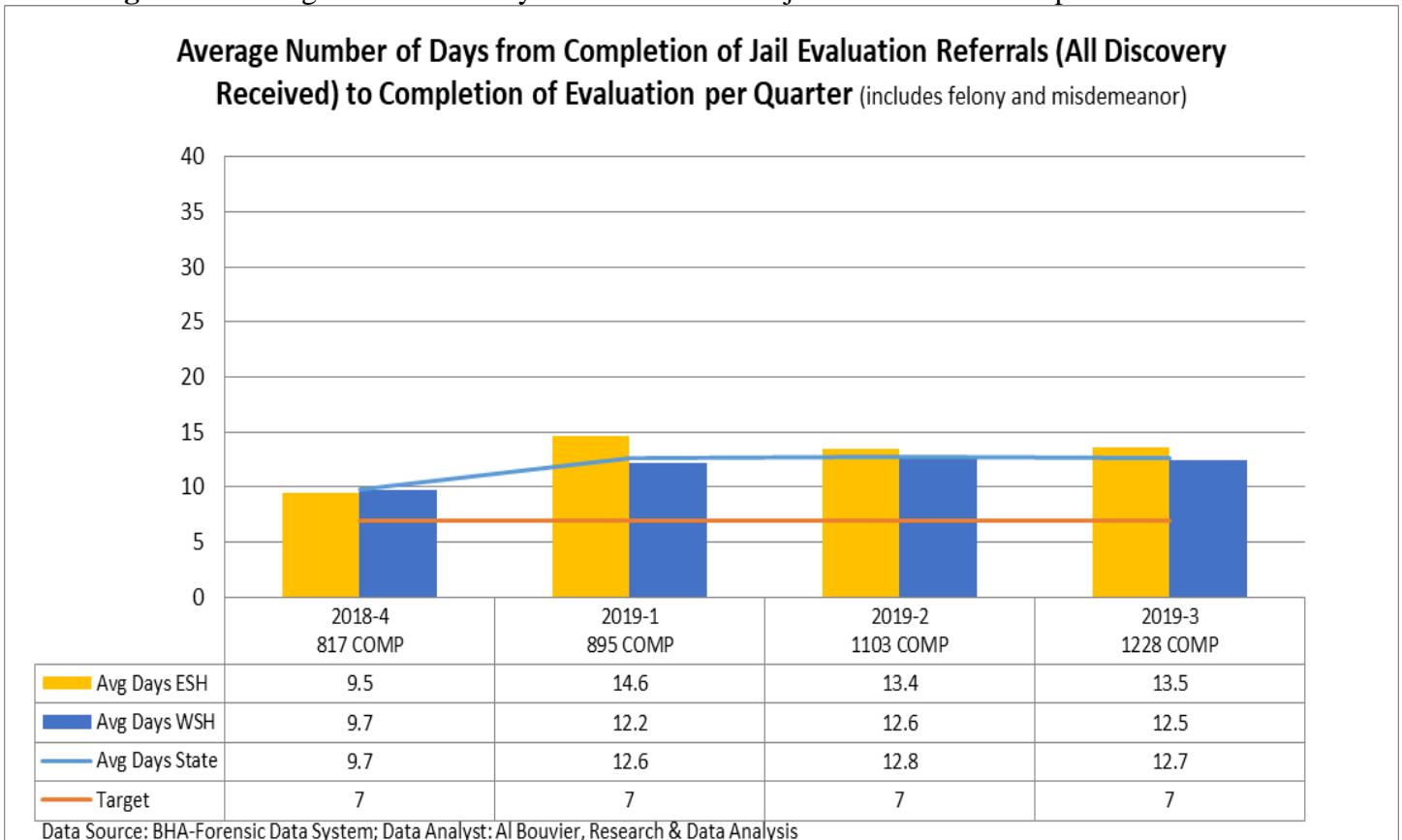


Data Note:

1) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 2.** Presents the wait times related to hospital admission for inpatient competency restoration treatment (including PR's).
- **Outcomes:** During the reporting period WSH saw a decrease in average wait times of 4.9-days while ESH saw wait times increase by more than 40 percent.
- **Drivers:** The factors driving the numbers here are much like those from Figure 1, above. Backlog build-up and seasonality are again in play; with the added pressure of lack of available restoration beds for those waiting for admission. Additionally, restoration beds typically turn over more slowly and require longer lengths of stay compared to evaluations' beds, so there is less throughput for these beds.

**Figure 3:** Average Number of Days from referral of in jail evaluation to completion



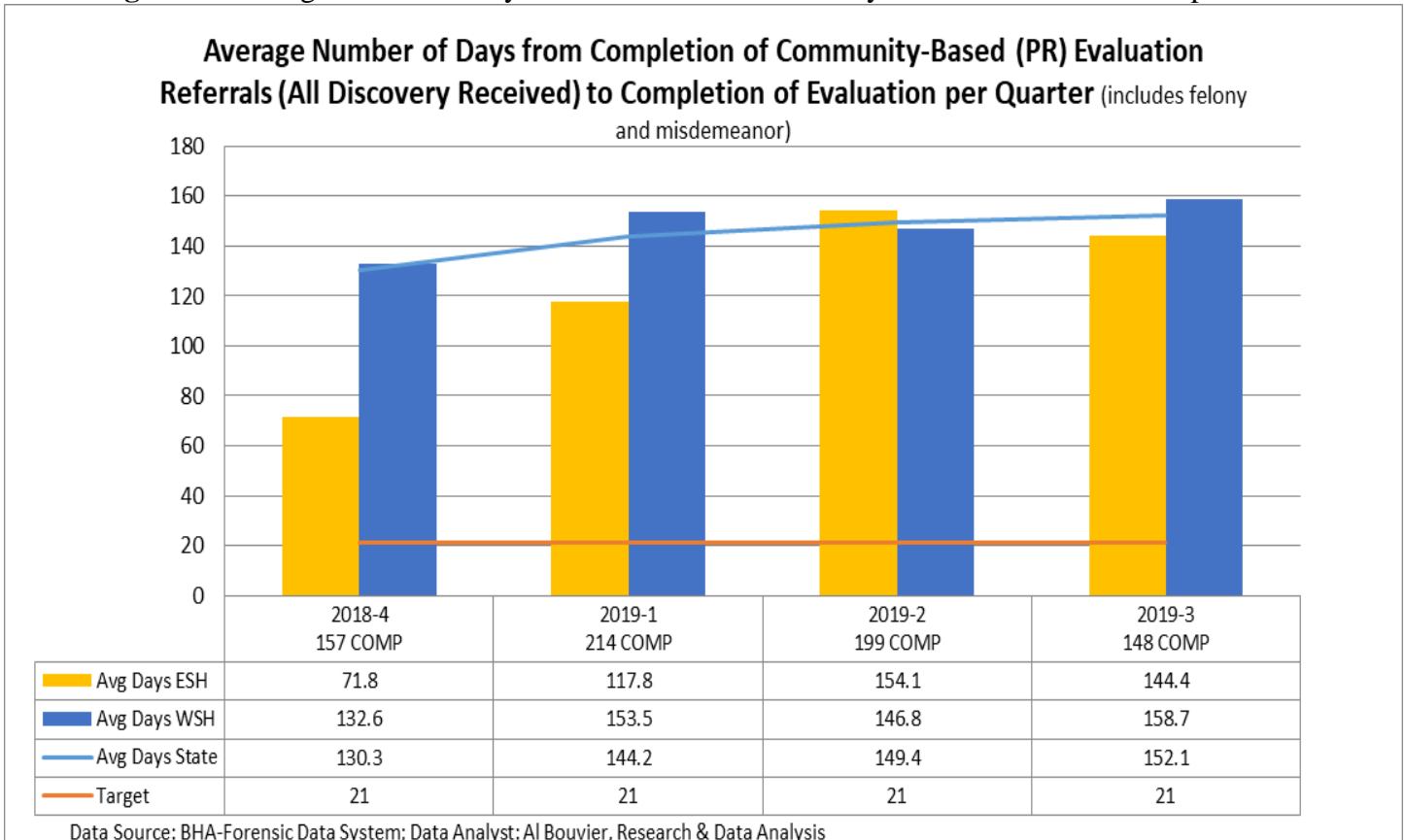
Data Notes:

- 1) Due to limitations of the data system at Eastern State Hospital, some previous quarters may have included both competency and non-competency referrals.
- 2) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 3.** Displays the number of days to complete jail (in-custody) evaluation referrals.
- **Outcomes:** WSH experienced significant increases in completion times, with an approximate increase in completion times of 25 percent from Q4 2018 to Q3 2019. Despite the increase, WSH remains well within compliance of the Trueblood decision’s requirements in this metric. ESH also experienced significant increases in completion times, which led to challenges in compliance with the Trueblood decision’s standard.
- **Drivers:** The performance numbers here remain strong; while the statutory target is 7-days, both WSH and ESH are primarily well within the 14-day target demanded by the Trueblood decision. This success has been realized due to the hard work of forensic evaluators and key staff added to OFMHS over the past

four years. Continued utilization of technology, and development of relationships with jail staff, have also contributed to this continued success. The Legislature's funding of the Trueblood settlement's Phase 1 especially new forensic evaluators, evaluator supervisors, and evaluator support staff has also offered substantial contributions toward timely evaluation completion in the face of withering services demand increases on a sustained basis.

**Figure 4:** Average number of days from referral of community based evaluation to completion



Data Notes:

- 1) Due to limitations of the data system at Eastern State Hospital, some previous quarters may have included both competency and non-competency referrals.
- 2) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 4.** These are the completion times related to community-based PR competency evaluation referrals.
- **Outcomes:** During the reporting period, WSH experienced an increase in completion times for community-based evaluation referrals of 26.1-days, while ESH had an increase of 72.6-days. Both hospitals saw fluctuation of both total referrals and completion times within the reporting period. While each hospital fluctuated up-and-down somewhat, statewide completion times rose each quarter, over the course of the reporting period. As a system, average evaluation times increased on average by 21.8-days, or approximately 17 percent, finishing Q3 2019 well above the target average of 21-days.

- **Drivers:** Two primary drivers here of the department’s difficulty in adequately serving community-based referrals are evaluator capacity and the fact that PR clients are not Trueblood Class Members. Because these clients are not Class Members, evaluator capacity is focused on meeting timeline requirements of the Trueblood decision in addition to timelines associated with forensic risk assessments for the Not Guilty by Reason of Insanity population and civil commitment petitions. Add to that the fact that this group of clients very often cannot be located, or do not show up for appointments, the performance numbers are negatively impacted by realities outside the control of OFMHS.

## **SECTION 2: COUNTY FORENSIC SYSTEM DATA**

### **COUNTY LEVEL RESULTS**

*SSB 6492 established a requirement that the department annually report “...timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.”* Tables 1 through 4 on the following pages provide this information.

**Table 1.** Describes the number of days counties took to complete a referral for inpatient competency services, from the time the order was signed to the time the county forwarded all documents necessary for a complete referral.

Number of Inpatient Competency Evaluation and Restoration Orders Received and Average Number of Days from Order Signature to Completion of Referral (All Discovery Received) By County, Hospital, and Order Type 10/1/2018 - 9/30/2019												
COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS	
	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral
ADAMS					2	1.5	2	0.0	2	1.5	2	0.0
ASOTIN					1	1.0	4	3.8	1	1.0	4	3.8
BENTON					13	0.2	30	1.2	13	0.2	30	1.2
CHELAN					7	1.1	27	5.3	7	1.1	27	5.3
CLALLAM	1	1.0	34	0.4					1	1.0	34	0.4
CLARK	10	1.4	105	0.8			5	0.8	10	1.4	110	0.8
COLUMBIA					3	29.3			3	29.3		
COWLITZ	1	0.0	39	0.4					1	0.0	39	0.4
DOUGLAS												
FERRY							4	2.3			4	2.3
FRANKLIN					9	0.1	11	0.1	9	0.1	11	0.1
GARFIELD							1	15.0			1	15.0
GRANT					9	0.7	27	1.3	9	0.7	27	1.3
GRAYS HARBOR	3	0.0	45	2.8					3	0.0	45	2.8
ISLAND			12	3.9							12	3.9
JEFFERSON	4	0.3	8	0.0					4	0.3	8	0.0
KING	60	1.0	396	0.6			16	0.7	60	1.0	412	0.6
KITTSAP	3	3.0	109	0.3			1	0.0	3	3.0	110	0.3
KITTITAS					10	1.0	4	0.0	10	1.0	4	0.0
KLICKITAT					3	0.0	1	0.0	3	0.0	1	0.0
LEWIS	1	0.0	35	0.8					1	0.0	35	0.8
LINCOLN					2	0.0	3	0.0	2	0.0	3	0.0
MASON	8	4.4	21	0.2					8	4.4	21	0.2
OKANOGAN					8	1.1	13	0.3	8	1.1	13	0.3
PACIFIC			13	2.9							13	2.9
PEND OREILLE												
PIERCE	43	5.2	329	3.4					43	5.2	329	3.4
SAN JUAN												
SKAGIT	6	0.3	50	0.2					6	0.3	50	0.2
SKAMANIA	1	0.0	4	0.3					1	0.0	4	0.3
SNOHOMISH	6	3.5	154	0.7			2	0.0	6	3.5	156	0.7
SPOKANE					32	0.8	93	1.6	32	0.8	93	1.6
STEVENS			1	2.0	4	1.0	3	0.0	4	1.0	4	0.5
THURSTON	7	0.4	141	2.0			1	1.0	7	0.4	142	2.0
WAHIAKUM												
WALLA WALLA					3	0.0	8	0.4	3	0.0	8	0.4
WHATCOM	3	1.0	56	3.7	2	0.0	5	0.8	5	0.6	61	3.4
WHITMAN							1	0.0			1	0.0
YAKIMA					35	3.2	54	0.6	35	3.2	54	0.6
TOTAL	157	2.38	1552	1.50	143	1.89	316	1.47	300	2.1	1868	1.5

Data Note: The average across counties for both hospitals is a weighted average and is based on reported averages only.

- **Outcomes:** During this reporting period, counties in the WSH catchment area took 2.38 and 1.50 days (for evaluation referrals and restoration referrals, respectively) to get completed referral packets to WSH. Counties in the ESH catchment area took 1.89 and 1.47 days respectively. These numbers have fluctuated over the past four reporting cycles, but do show improvement overall. The counties in ESH's catchment area dramatically improved the time needed to get completed restoration referral packets to ESH. The average time decreased from 4.07 days in the 2017-2018 reporting period, a 277 percent improvement.
- **Drivers:** This improvement is attributed to the OFMHS Liaison and Admissions Coordinator and hospital support staff working with counties to streamline this process and to quickly correct any emerging issues.



**Table 2.** Describes the delay between the hospital receiving a complete referral and offering admission.

Number of Inpatient Competency Evaluation and Restoration Admission Bed Offers Made and Average Number of Days from Completion of Referral (All Discovery Received) to Bed Offer By County, Hospital, and Order Type Target: 7 Days 10/1/2018 - 9/30/2019												
COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS	
	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer
ADAMS					2	12.0	2	17.5	2	12.0	2	17.5
ASOTIN					1	15.0	4	18.3	1	15.0	4	18.3
BENTON					8	19.0	24	25.3	8	19.0	24	25.3
CHELAN					5	39.2	24	26.3	5	39.2	24	26.3
CLALLAM	1	60.0	21	56.1					1	60.0	21	56.1
CLARK	9	24.4	79	52.2			5	52.4	9	24.4	84	52.2
COLUMBIA												
COWLITZ			28	59.7							28	59.7
DOUGLAS												
FERRY							4	12.8			4	12.8
FRANKLIN					4	43.0	12	27.5	4	43.0	12	27.5
GARFIELD												
GRANT					7	39.7	21	35.4	7	39.7	21	35.4
GRAYS HARBOR	3	48.3	35	43.6					3	48.3	35	43.6
ISLAND			10	40.8							10	40.8
JEFFERSON	3	30.3	6	41.5					3	30.3	6	41.5
KING	42	44.0	320	46.7			16	50.9	42	44.0	336	46.9
KITSAP	3	35.3	71	50.2			1	91.0	3	35.3	72	50.7
KITTITAS					5	19.2	2	0.0	5	19.2	2	0.0
KLICKITAT							1	109.0			1	109.0
LEWIS	2	46.0	25	34.9					2	46.0	25	34.9
LINCOLN							3	11.7			3	11.7
MASON	8	35.0	19	50.7					8	35.0	19	50.7
OKANOGAN					5	22.4	10	32.5	5	22.4	10	32.5
PACIFIC			8	33.6							8	33.6
PEND OREILLE												
PIERCE	38	39.0	295	49.3					38	39.0	295	49.3
SAN JUAN												
SKAGIT	4	19.0	29	55.2					4	19.0	29	55.2
SKAMANIA	1	48.0	3	43.0					1	48.0	3	43.0
SNOHOMISH	3	21.3	65	63.0			2	41.0	3	21.3	67	62.4
SPOKANE					23	49.7	77	37.7	23	49.7	77	37.7
STEVENS			1	3.0	1	29.0	3	23.7	1	29.0	4	18.5
THURSTON	3	37.3	83	45.9			1	34.0	3	37.3	84	45.7
WAHKIACUM												
WALLA WALLA					2	20.5	6	23.0	2	20.5	6	23.0
WHATCOM	3	44.0	47	56.8	1	27.0	5	21.4	4	39.8	52	53.4
WHITMAN							1	48.0			1	48.0
YAKIMA					24	35.9	52	32.1	24	35.9	52	32.1
TOTAL	123	38.68	1145	49.43	88	35.74	276	33.21	211	37.45	1421	46.28

Data Note: The average across counties for both hospitals is a weighted average and is based on reported averages only.

- **Outcomes:** For this period, counties in the WSH catchment area had wait times 38.68days for evaluation beds and 49.43days for restoration beds. Counties in the ESH catchment area had wait times of 35.74days for evaluation beds and 33.21days for restoration beds.
- **Drivers:** WSH presented mixed results with evaluation wait times decreasing but restoration wait times increasing. Restoration beds are most in demand, and the ongoing need for additional beds results in the backlog building up, as wait times increase. ESH wait times have also increased this reporting cycle as average wait for evaluation and restoration beds more than doubled in both categories.

**Table 3.** Describes the number of days counties took to complete a referral for outpatient (jail-based and PR) competency services from the time the order was signed to the time the county forwarded all documents necessary for a complete referral. The data in this table is further broken down as to whether the defendant was in custody (labeled as Jail) or was in the community (labeled as PR).

Number of Outpatient Competency Evaluation Orders Received and Average Number of Days from Order Signature to Completion of Referral (All Discovery Received) By County, Hospital, and Order Type 10/1/2018 - 9/30/2019												
COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	JAIL		PR		JAIL		PR		JAIL		PR	
	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral
ADAMS					3	1.0	5	4.8	3	1.0	5	4.8
ASOTIN					8	0.3	1	1.0	8	0.3	1	1.0
BENTON					103	0.6	68	0.9	103	0.6	68	0.9
CHELAN					62	1.8	37	2.6	62	1.8	37	2.6
CLALLAM	69	0.7	18	0.6					69	0.7	18	0.6
CLARK	246	0.7	80	3.7					246	0.7	80	3.7
COLUMBIA					4	16.5	5	31.4	4	16.5	5	31.4
COWLITZ	94	0.4	25	0.8					94	0.4	25	0.8
DOUGLAS					2	1.5	3	44.0	2	1.5	3	44.0
FERRY					4	2.5	3	0.7	4	2.5	3	0.7
FRANKLIN					77	1.8	26	7.5	77	1.8	26	7.5
GARFIELD					1	0.0	1	0.0	1	0.0	1	0.0
GRANT					34	1.0	14	0.9	34	1.0	14	0.9
GRAYS HARBOR	82	1.9	11	3.3					82	1.9	11	3.3
ISLAND	17	3.5	7	17.0	1	6.0			18	3.7	7	17.0
JEFFERSON	14	0.0	2	22.0					14	0.0	2	22.0
KING	1597	0.7	457	3.1					1597	0.7	457	3.1
KITSAP	186	0.5	62	0.7					186	0.5	62	0.7
KITITIAS					6	1.3	1	0.0	6	1.3	1	0.0
KLICKITAT			1	42.0	5	3.0	4	0.8	5	3.0	5	9.0
LEWIS	85	0.6	12	2.6					85	0.6	12	2.6
LINCOLN					8	1.0	8	9.4	8	1.0	8	9.4
MASON	49	2.1	32	1.6					49	2.1	32	1.6
OKANOGAN					38	1.2	28	2.2	38	1.2	28	2.2
PACIFIC	21	3.0	2	1.5					21	3.0	2	1.5
PEND OREILLE					1	0.0			1	0.0		
PIERCE	518	0.8	144	2.8					518	0.8	144	2.8
SAN JUAN					2	0.5			2	0.5		
SKAGIT	54	0.7	50	2.0					54	0.7	50	2.0
SKAMANIA	7	0.7	2	0.5					7	0.7	2	0.5
SNOHOMISH	248	1.0	86	9.2					248	1.0	86	9.2
SPOKANE					304	1.8	183	4.0	304	1.8	183	4.0
STEVENS					16	2.4	5	4.2	16	2.4	5	4.2
THURSTON	208	1.4	102	3.0					208	1.4	102	3.0
WAHIAKUM	4	0.0							4	0.0		
WALLA WALLA					17	2.4	12	11.5	17	2.4	12	11.5
WHATCOM	119	1.6	24	15.9	29	0.4	1	0.0	148	1.4	25	15.2
WHITMAN					4	1.3			4	1.3		
YAKIMA			1	17.0	175	1.7	75	3.8	175	1.7	76	4.0
TOTAL	3618	0.84	1118	3.66	904	1.59	480	4.18	4522	0.99	1598	3.82

Data Note: The average across counties for both hospitals is a weighted average and is based on reported averages only.

- **Outcomes:** Counties in the WSH catchment area took, on average, .84days to complete a jail-based referral, and 3.66days to complete a PR referral. Counties in the ESH catchment area took, on average, 1.59days to complete a jail-based referral, and 4.18days to complete a PR referral.
- **Drivers:** On average, WSH shows a small increase in jail-based referral processing times and ESH is essentially flat. However, both hospitals reversed their general years-long improving trends for processing PR cases as average time to process PR referrals increased substantially compared to the 2017-2018 reporting period. Resources are often limited in terms of prioritizing PR cases as they are not Trueblood class members. The substantially longer referral processing times are, in part, indicative of prioritizing limited resources toward class members.

**Table 4.** Describes the delay between receiving a complete referral for outpatient evaluation and the date the evaluation was completed. The data in this table is further broken down as to whether the defendant was in custody (labeled as Jail) or was in the community (labeled as PR).

Number of Outpatient Competency Evaluation Reports Completed (Faxed) and Average Number of Days from Completion of Referral (All Discovery Received) to Service Provision By County, Hospital, and Order Type Target: 7 Days for Jail, 21 Days for PR 10/1/2018 - 9/30/2019												
COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	JAIL		PR		JAIL		PR		JAIL		PR	
	Number Reports Faxed	Average Days to Fax	Number Reports Faxed	Average Days to Fax	Number Reports Faxed	Average Days to Fax	Number Reports Faxed	Average Days to Fax	Number Reports Faxed	Average Days to Fax	Number Reports Faxed	Average Days to Fax
ADAMS					2	14.0	1	194.0	2	14.0	1	194.0
ASOTIN					9	12.4			9	12.4		
BENTON					91	12.0	47	125.5	91	12.0	47	125.5
CHELAN					54	14.3	21	106.7	54	14.3	21	106.7
CLALLAM	73	13.1	3	172.0					73	13.1	3	172.0
CLARK	241	12.3	46	83.4					241	12.3	46	83.4
COLUMBIA					2	46.0	3	92.7	2	46.0	3	92.7
COWLITZ	88	10.8	7	207.9					88	10.8	7	207.9
DOUGLAS					3	19.0	1	154.0	3	19.0	1	154.0
FERRY					4	10.8	3	173.0	4	10.8	3	173.0
FRANKLIN					68	14.1	12	145.3	68	14.1	12	145.3
GARFIELD					1	18.0			1	18.0		
GRANT					30	12.5	7	113.6	30	12.5	7	113.6
GRAYS HARBOR	79	11.4	6	210.7					79	11.4	6	210.7
ISLAND	15	13.5	4	75.5	1	24.0			16	14.1	4	75.5
JEFFERSON	14	12.9							14	12.9		
KING	1469	12.8	184	129.8			1	206.0	1469	12.8	185	130.2
KITSAP	183	12.9	15	258.5					183	12.9	15	258.5
KITITIAS			1	198.0	5	15.8	1	17.0	5	15.8	2	107.5
KLICKITAT					4	15.8	4	175.5	4	15.8	4	175.5
LEWIS	80	11.1	7	165.1					80	11.1	7	165.1
LINCOLN					6	9.2	3	65.7	6	9.2	3	65.7
MASON	44	10.6	12	226.3					44	10.6	12	226.3
OKANOGAN					29	13.1	15	116.5	29	13.1	15	116.5
PACIFIC	21	10.9	3	167.3					21	10.9	3	167.3
PEND OREILLE					1	14.0			1	14.0		
PIERCE	450	11.6	79	170.6					450	11.6	79	170.6
SAN JUAN					2	10.0			2	10.0		
SKAGIT	53	12.3	13	194.8					53	12.3	13	194.8
SKAMANIA	6	15.0	1	11.0					6	15.0	1	11.0
SNOHOMISH	230	12.4	57	114.9					230	12.4	57	114.9
SPOKANE					289	13.8	69	147.9	289	13.8	69	147.9
STEVENS					13	14.9	5	122.6	13	14.9	5	122.6
THURSTON	191	10.9	53	181.5					191	10.9	53	181.5
WAHIAKUM	3	12.7							3	12.7		
WALLA WALLA					17	15.8	5	120.6	17	15.8	5	120.6
WHATCOM	111	11.9	3	44.3	27	17.9			138	13.1	3	44.3
WHITMAN					4	14.8			4	14.8		
YAKIMA					150	13.6	44	139.8	150	13.6	44	139.8
TOTAL	3351	12.28	494	145.80	812	13.80	242	133.32	4163	12.57	736	141.70

Data Note: The average across counties for both hospitals is a weighted average and is based on reported averages only.

- **Outcomes:** WSH took, on average, 12.28days to complete a jail-based evaluation as compared to 8.09days in the 2018 reporting period) and 145.8days to complete a PR evaluation (as compared to 104.56days in 2018). ESH took, on average, 13.80days to complete a jail-based evaluation (as compared to 11.38days in the 2018 reporting period) and 133.32days to complete a PR evaluation (as compared to 52.53days in 2018).
- **Drivers:** The timeframes at WSH and ESH decreased in comparison to the previous reporting period for both jail-based and PR evaluations. As previously discussed above, PR evaluations are fraught with potential delays; most notably, the inability to locate clients, clients not showing up for appointments, and the need to prioritize limited resources, especially at peak demand times, toward Trueblood class members, FRA assessments, and civil commitment petitions.

### **SECTION 3: ACTIONS TAKEN**

DSHS submitted a long-term plan to the Court in July 2015, which outlines DSHS' plans for coming into compliance with the timelines established in the Trueblood decision. On February 8, 2016, the Court issued an order modifying the original April 2, 2015 order, providing a new timeline requiring full compliance as of May 27, 2016. Pursuant to the Court's February 8, 2016 order, DSHS revised the long-term plan and submitted this plan to the Court on May 6, 2016. The long-term plan can be found by visiting:

<https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/Trueblood/2016Trueblood/Combine-d-Long-Term-Plan-2016-05-06.pdf> .

OFMHS is responsible for the leadership and management of Washington's forensic mental health care system, and is addressing the increase in demand for mental health services for adults and youth in the criminal court system. OFMHS provides forensic evaluations, competency restoration, NGRI treatment services, and liaison services to effectively coordinate efforts with system partners to meet shared goals. OFMHS additionally provides ongoing training and technical assistance to improve quality and timeliness of forensic mental health services as well as data management and resource allocation, training and certification of evaluators, quality monitoring, and reporting.

OFMHS works in collaboration with the Governor's office to lead and implement robust diversion efforts to prevent citizens with mental illness from entering the criminal court system. Significant public resources have been invested in providing the high quality and empirically supported services of OFMHS.

Three major goals for OFMHS during this period were (1) building workforce (2) expanding bed capacity and (3) decreasing demand for competency services. Below are the key actions that occurred during this period to decrease wait times.

#### **1. Building workforce**

During the reporting period, training for evaluators continued and OFMHS will continue to track the impacts of additional evaluation capacity on timeliness for competency evaluations and admission into restoration beds. The competency restoration programming (Breaking Barriers) has been updated/revised and training will continue to occur at all sites to help with the early referral process (as this will help increase the turnover in bed use thereby allowing the department to serve more individuals and work toward compliance). Technical assistance for jails and workforce development staff were hired forming a full team to further focus on this area during the next reporting period. The Legislature authorized hiring an additional 13 forensic evaluators during FY 2020. OFMHS has already made progress toward reaching that goal in hiring staff.

## 2. Expanding bed capacity

During previous reporting periods, 104 new beds were opened including 27 beds at ESH, 15 beds at WSH, and 54 beds at two temporary alternate competency restoration sites. The department completed the renovation of Building 27 at WSH, which added 30 new permanent restoration beds. Building 27 opened as the Fort Steilacoom Competency Restoration Program in late August 2019. WSH and ESH are each working to bring two forensic wards online in fiscal year 2020. WSH is converting civil beds to forensic (40 beds), and ESH is remodeling empty building space into forensic wards (50 beds).

## 3. Decreasing demand for competency services

DSHS completed its work toward building an integrated forensic data system to include consistent data entry and tracking of all class members from creation of court order for competency evaluation through completion of evaluation and/or restoration services. The new system went live on August 1, 2018 and will provide evaluators the ability to access discovery documents, regardless of location, to reduce delays. It will also provide a platform for quality reporting from a single system, eliminating the variability currently inherent in leveraging legacy applications not meant for this purpose. During this reporting period, the department has continued to development and enhancement of the data system substantially improving its capabilities over time.

Mobile equipment (laptops, phones) has been deployed to evaluators in addition to microphones for use with dictation software (Dragon). The use of a virtual private network (VPN) by the evaluators as they travel has been positively received. Reports from the field confirm it is a much more efficient method for submitting and reviewing dictation and editing work, and that access to VPN reduces the turnaround time on reports.

Additionally, the OFMHS liaison and diversion specialist is working with community and county service providers in an attempt to create increased use of diversion throughout the state that will allow for more potential clients to be diverted into community-based treatment.

As part of the Trueblood Contempt Settlement agreement, DSHS and the Health Care Authority will be implementing programs in 2020 to decrease the need for forensic/competency services by expanding diversion services in nine counties. This is in addition to 12 fine funded diversion programs and three state funded programs already in operation to decrease the demand of competency services.



The department partnered with the Legislature on E2SSB 5444, Chapter 326, Laws of 2019 that among other important changes, enabled courts to not order restoration treatment, in certain proceedings, if there was not a compelling state interest to do so. The new statute took effect on July 28, 2019, and as of the end of this reporting period, there is not yet sufficient data to determine the effects on demand of this new statute. OFMHS continues to look at other potential statutory changes that may reduce the demand on existing systems as well.

## **NEXT STEPS**

Future reports will provide continued progress reporting on efforts focused on three main areas as it relates to compliance: (1) continued expansion of bed capacity (2) continued workforce development and (3) decreasing demand for competency services.

A key area for OFMHS' work is to identify and develop with community stakeholders programs to reduce the demand of competency services. The desired outcomes will reduce competency evaluation referrals by liaising with prosecutor's offices, pre-trial services, and jails. Assessment and referral services, care management, medication management and monitoring, and intensive supports will all factor into these programs as well.

Additionally, the United States District Court for the Western District of Washington approved the Trueblood contempt settlement agreement on December 11, 2018, between DSHS and plaintiff's counsel, and it subsequently approved the settlement's final implementation plan on June 27, 2019. The contempt settlement agreement's Phase 1 funded activities began in earnest on July 1, 2019 coinciding with the state's new 2019-2021 budget biennium. The 2019-2020 reporting period anticipates implementation of several new programs that have individual and collective potential to begin reducing demand for competency services and to improve the department's ability to timely deliver those services as required in state legislation and the Trueblood decision.

## **SUMMARY**

The department will continue to work on meeting compliance standards set out by the Court and Legislature. OFMHS continues to work on what impacts can be made with regard to (1) decreasing demand (referrals) (2) increasing bed capacity (3) increasing throughput (quicker turnover in hospitals) and (4) managing in-custody evaluations to reduce barriers so compliance can be reached.