

Report to the Legislature

Forensic Admissions and Evaluations – Performance Targets 2013 - Fourth Quarter

Senate Bill 6492
As codified in RCW 10.77.068

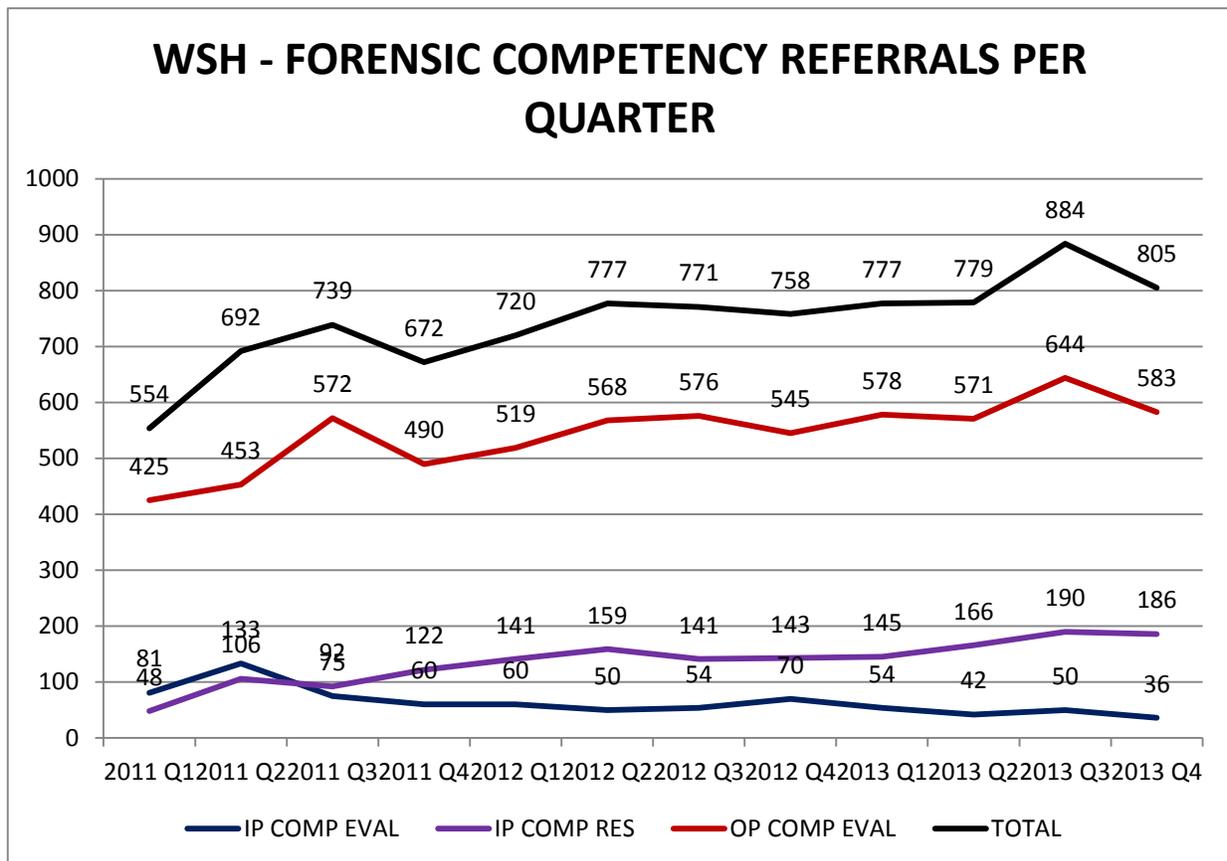
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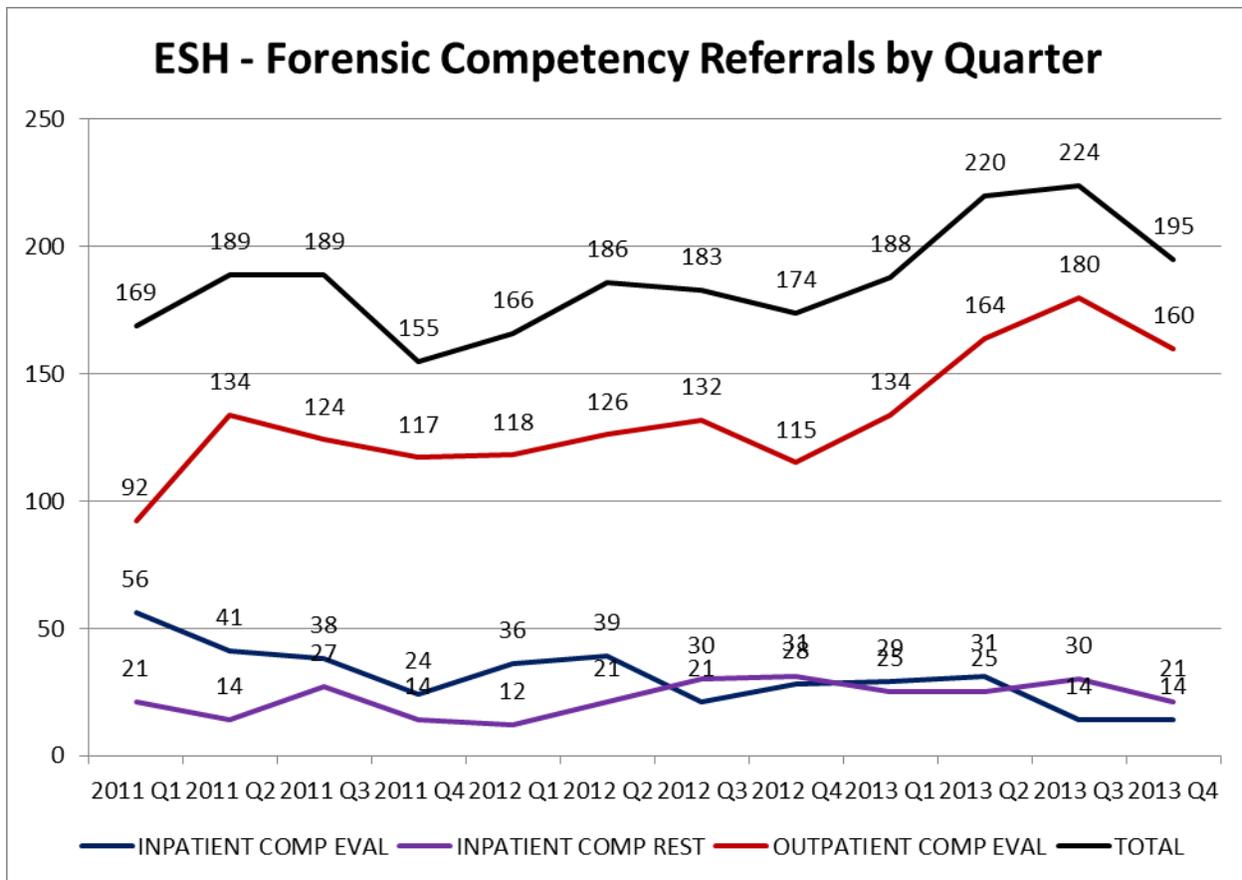


EXECUTIVE SUMMARY

On May 1, 2012, RCW 10.77 was amended by Substitute Senate Bill 6492. The amendment made changes to the evaluation process, set timelines for the admission and evaluation of forensic mental health patients, and required the State Hospitals to set up a system of reporting and accountability when performance targets were not met. As mandated by RCW 10.77.068(3), the following quarterly report explains the extent to which the hospitals deviated from performance targets and describes the hospitals' plans to meet these performance targets.

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 evaluations by the State Hospitals increased by 83%. The rate of growth in 2013 outstripped the annualized rate of growth for the previous decade, with over 7% more referrals in 2013 than in 2012. In 2013, this growth was primarily accommodated by increasing the rate at which evaluators were expected to complete evaluations and by shifting resources within the hospital, rather than by requesting additional resources from the legislature.





In the period between 2010 and 2011, the strongest predictor of waitlist length was the number of unfilled psychiatry and psychology positions. In the current quarter, Western State Hospital approached full staffing in both psychiatry and psychology. However, the increased throughput of forensic patients has placed additional strains on the hospital in terms of physical bed space, higher acuity, security and, increased workload for ward staff. Western State Hospital has several active initiatives to reduce patient and staff injuries, reduce the use of seclusion and restraints, improve utilization, and improve security. These initiatives are being balanced with the mandate to reduce waitlists. Because of the more complex environment and competing initiatives in the inpatient unit, progress has been less rapid than in the in-custody and community based units.

Eastern State Hospital

Eastern State Hospital’s wait list continued to increase this quarter. Productivity remains constant among the evaluators when taking into account vacations and personal illness. Since the implementation of SB 6492 in May 2012, Eastern State Hospital (ESH) has seen an increase in the number of referrals for offsite competency evaluation, which correlates with an increase in the number of competency restoration orders. ESH evaluators continue to follow their patient through the process from forensic to civil conversion.

ESH has one 25 bed admission ward where all admissions to the forensics unit are screened and evaluated. Patients committed under a Not Guilty by Reason of Insanity (NGRI) order are admitted to this unit first for initial assessment to determine which long term ward is most appropriate. The two long term wards, with populations of 30 and 40, remain at capacity – with no room to accept newly

committed NGRI patients. This admission ward is also where patients who are determined unable to regain competency remain hospitalized until the order for civil commitment is granted.

ANALYSIS

Performance Targets

Substitute Senate Bill 6492 became effective May 1, 2012. Performance targets related to defendants being detained in-custody or awaiting admission into the State Hospitals were phased in over six months, becoming fully effective on November 1, 2012. Targets related to evaluations of out-of-custody defendants became effective May 1, 2013.

For defendants awaiting admission to the hospital, the target is to offer admission within seven days of receiving a completed referral. For defendants awaiting evaluation in the jail, the target is to have the evaluation completed and delivered to the referring court within seven days of receiving a completed referral. The following table summarizes performance on these targets in the second quarter of 2013:

Western State Hospital - 6492 QUARTERLY REPORT - DATA

Average Time to Target -- 4TH Quarter 2013

Inpatient Evaluations	Referrals Received	Number Admitted	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Evaluations	35	32	29.06	2	6.25%
Misdemeanor Inpatient Evaluations	1	2	20.00	0	0.00%
All Inpatient Evaluations	36	34	28.53	2	5.88%
Inpatient Restorations	Referrals Received	Number Admitted	Average Days Until Admission	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Inpatient Restorations	160	150	20.63	46	30.67%
Misdemeanor Inpatient Restorations	24	24	20.92	0	0.00%
All Inpatient Restorations	184	174	20.67	46	26.44%
Inpatient NGRI	Referrals Received	Number Admitted	Average Days Until Admission	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony NGRI	3	3	7.67	2	66.67%
Misdemeanor NGRI	0	0	N/A	N/A	N/A
All NGRI	3	3	7.67	2	66.67%
Outpatient Jail Evaluations	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Outpatient Jail Evaluations	166	139	20.50	28	20.14%
Misdemeanor Outpatient Jail Evaluations	251	239	16.30	35	14.64%
All Outpatient Jail Evaluations	417	378	17.86	63	16.67%
Outpatient P.R. Evaluations	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 21 Days	Percent Completed Within 21 Days
Felony Outpatient P.R. Evaluations	38	24	84.16	7	29.17%
Misdemeanor Outpatient P.R. Evaluations	113	75	97.95	20	26.67%
All Outpatient P.R. Evaluations	151	99	94.98	27	27.27%

Eastern State Hospital - 6492 QUARTERLY REPORT - DATA

Average Time to Target					
Inpatient Evaluations	Referrals Received	Number Admitted	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Evaluations	12	6	144.00	0	0.00%
Misdemeanor Inpatient Evaluations	2	2	49.00	0	0.00%
All Inpatient Evaluations	14	8	120.25	0	0.00%
Inpatient Restorations	Referrals Received	Number Admitted	Average Days Until Admission	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Inpatient Restorations	16	19	24.00	1	5.26%
Misdemeanor Inpatient Restorations	5	5	28.00	0	0.00%
All Inpatient Restorations	21	24	24.83	1	4.17%
Inpatient NGRI	Referrals Received	Number Admitted	Average Days Until Admission	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony NGRI	2	2	8.00	1	50.00%
Misdemeanor NGRI	0	0	n/a	n/a	n/a
All NGRI	2	2	8.00	1	50.00%
Outpatient Jail Evaluations	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Outpatient Jail Evaluations	51	50	69.00	0	0.00%
Misdemeanor Outpatient Jail Evaluations	42	31	46.00	0	0.00%
All Outpatient Jail Evaluations	93	81	60.20	0	0.00%
Outpatient P.R. Evaluations	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 21 Days	Percent Completed Within 21 Days
Felony Outpatient P.R. Evaluations	19	15	90.00	0	0.00%
Misdemeanor Outpatient P.R. Evaluations	45	29	60.00	1	3.45%
All Outpatient P.R. Evaluations	64	44	70.23	1	2.27%

WSH - Outpatient Withdrawn		
JAIL	Felony	5
JAIL	Misdemeanor	17
P.R.	Felony	7
P.R.	Misdemeanor	38
ALL Withdrawn		67

WSH - Outpatient TIC		
JAIL	Felony	8
JAIL	Misdemeanor	2
P.R.	Felony	0
P.R.	Misdemeanor	0
All TICs		10

WSH - Average Time to Target -- 4TH Quarter 2013					
Inpatient 72 CC	Number Referred	Number Admitted	Average Days Until Admission	Number Admitted Within 3 Days	Percent Admitted Within 3 Days
Felony Inpatient 72 CC	32	30	2.07	21	70.00%
Misdemeanor Inpatient 72 CC	5	5	2.60	5	100.00%
All Inpatient 72 CC	37	35	2.14	26	74.29%

ESH - Outpatient Withdrawn		
JAIL	Felony	0
JAIL	Misdemeanor	0
P.R.	Felony	0
P.R.	Misdemeanor	0
ALL Withdrawn		0

ESH - Outpatient TIC		
JAIL	Felony	0
JAIL	Misdemeanor	0
P.R.	Felony	0
P.R.	Misdemeanor	0
All TICs		0

ESH - Average Time to Target					
Inpatient 72 CC	Number Referred	Number Admitted	Average Days Until Admission	Number Admitted Within 3 Days	Percent Admitted Within 3 Days
Felony Inpatient 72 CC	11	0	n/a	n/a	n/a
Misdemeanor Inpatient 72 CC	1	0	n/a	n/a	n/a
All Inpatient 72 CC	12	0	n/a	n/a	n/a

WSH - Size of Current Evaluation Backlog (12/31/2013)		
Inpatient	Number Waiting	# Waiting > 7 Days
Felony Inpatient Evaluation	4	4
Misdemeanor Inpatient Evaluation	0	0
Felony Inpatient Restoration	25	25
Misdemeanor Inpatient Restoration	4	4
Outpatient Jail		
	Number Waiting	# Waiting > 7 Days
Felony Jail Evaluation	20	9
Misdemeanor Jail Evaluation	19	11
Outpatient P.R.		
	Number Waiting	# Waiting > 21 Days
Felony P.R. Evaluation	24	18
Misdemeanor P.R. Evaluation	99	78

ESH - Size of Current Evaluation Backlog (12/31/2013)		
Inpatient	Number Waiting	# Waiting > 7 Days
Felony Inpatient Evaluation	8	8
Misdemeanor Inpatient Evaluation	0	0
Felony Inpatient Restoration	3	3
Misdemeanor Inpatient Restoration	0	0
Outpatient Jail		
	Number Waiting	# Waiting > 7 Days
Felony Jail Evaluation	37	37
Misdemeanor Jail Evaluation	18	18
Outpatient P.R.		
	Number Waiting	# Waiting > 21 Days
Felony P.R. Evaluation	17	15
Misdemeanor P.R. Evaluation	26	17

Deviation from Performance Targets

Western State Hospital

In the WSH inpatient (hospital) unit, approximately 26% of restorations were admitted within seven days, and approximately 6% of evaluations were admitted within seven days of receiving a completed referral. The individual evaluators continue to significantly surpass productivity standards. During the current quarter, the inpatient evaluation unit was fully staffed, and the hospital continued to provide additional psychiatry resources.

For the WSH in-custody (detention) unit, 20% of defendants charged with felonies, and 15% of defendants charged with misdemeanors were seen within statutory time guidelines. Average productivity per evaluator continued to improve this quarter. The outpatient unit operated with one vacancy.

RCW 10.77.068 (1)(c) includes a non-exclusive list of factors outside of the department’s control that could impact performance targets. Evaluator resources were the overwhelming determinant of timeliness. However, there were significant additional delays related to the courts, detention centers, and community partners. In the current quarter, the database was modified such that days of delay could be tracked, whereas previously we had tracked only the presence or absence of outside delays. The following table reports only those delays that occur after a referral is considered complete. The table also fails to account for delays that occur due to issues such as counties calendaring transports only on certain days, as the hospital offers admission on days that the counties transport.

While in-custody wait *times* did not significantly improve during this quarter, the number of defendants on the waitlist did improve. The inpatient waitlist was reduced from 41 to 33, the in-jail waitlist was reduced from 88 to 39, and the community waitlist was reduced from 140 to 123. While these metrics are less stable than the average wait times, they suggest a positive trend as the quarter progressed.

WSH - Delay Factor			
	All Days Waiting	Days Delayed	% of Days Waiting
Inpatient Admissions	4705	41	0.9%
Outpatient Evaluations	23473	2474	10.5%

ESH - Delay Factor			
	All Days Waiting	Days Delayed	% of Days Waiting
Inpatient Admissions			NOT TRACKED
Outpatient Evaluations			NOT TRACKED

Eastern State Hospital

During fourth quarter 2013 the inpatient waitlist remained stable throughout much of the quarter but towards the end of the quarter the list has shrunk with 4-5 names on the waitlist for competency restoration and 4-5 names for inpatient competency evaluation. The offsite list continues to grow and remains in triple digits – evaluators typically see 8-10 evaluations each week, and the hospital receives 10-15 new orders for evaluation.

ESH continues to recruit for additional competency evaluators – both psychology and psychiatry. Salary continues to be a significant barrier to recruitment. Location has also been cited as a factor, as several candidates have indicated a desire to live and work in Washington State but prefer the west side. A search for clinical psychologists in the Tri-Cities produced no results.

New Section 2, 1(a)(i) requires 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, seven days or less.

Eastern State Hospital has been unable to sustain this requirement. The increase in the number of offsite competency evaluations has been greater than anticipated based on past years' numbers. The increase in competency evaluations correlates to an increase in competency restoration orders received. The restoration orders take precedence at ESH over competency evaluations.

Section 2, 1(a)(ii) requires the distribution of the evaluation report for a defendant in pretrial custody to be completed within seven days or less.

ESH continues to be unable to meet this requirement. Competency evaluations for defendants in pretrial custody are scheduled out several weeks, which is beyond the seven day mandate.

Section 2, 1(a)(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.

ESH is unable to sustain this requirement. Competency evaluations for defendants out of custody continues to take a considerable amount of time to schedule. Hospital staff coordinate appointments with the evaluator, the attorney and the defendant. There are occasions where the defendant is not in contact with their attorney of record which delays the scheduling process. On occasion the attorney is not available when the evaluation is first attempted for scheduling and this further delays the process. ESH process is to allow two attempts to evaluate the defendant before issuing a Case Status Report to the presiding court. This will be reviewed with WSH forensics staff to more align with WSH practices.

Section 2, 1(b) The time periods measured in these performance targets shall run from the date on which the state hospital receives the court referral and charging documents, discovery and criminal history information related to the defendant.

ESH staff process the court order for evaluation as soon as it is received. Process has been changed to alert the defense attorney when the court order is received requesting discovery to try and speed up the process.

Section 2, 1(c)(i) Despite a timely request, the department has not received necessary medical clearance information regarding the current status of a defendant in pretrial custody for the purposes of admission to a state hospital.

ESH requires medical clearance for all admissions. Oftentimes this is a difficult task to accomplish for some of the outlying county jails. It is especially difficult when a defendant is out of custody and awaiting admission to the hospital and the defendant is indigent, with no means to pay for the medical clearance evaluation, with or without a practitioner willing to conduct the screening examination.

Plan for Meeting Targets

Western State Hospital and Eastern State Hospital have developed comprehensive performance improvement plans based both on the preliminary observations of the JLARC and on the input of the professionals performing the evaluations. Some aspects of the plans have been initiated, and measurable results are projected for the third and fourth quarters of 2014

Increasing per-evaluator productivity

Western State Hospital

Over the past year, per-evaluator productivity has increased significantly. In the presence of significant waitlists, evaluators were able to exceed productivity guidelines by approximately 15%. However, as the waitlists are reduced, we anticipate losing one of the major efficiencies contributing to this high rate of production. Currently, when evaluators travel to distant counties, they select two to three referrals to interview on one trip. Travel time will consume a greater proportion of evaluator time when the waitlists are reduced and this will likely have a measurable effect on productivity.

Eastern State Hospital

ESH's monthly productivity standards are being met by all evaluators. There continues to be one evaluator assigned to inpatient competency evaluations. ESH is not currently looking at increasing per-evaluator productivity.

Management of Bottlenecks

Western State Hospital

At the beginning of the quarter, the shortage of forensic evaluators at WSH was the rate limiting factor for both hospital admissions and the evaluation of defendants in corrections and the community. As a short term response, WSH has made additional psychiatry resources available for tasks that have diverted forensic evaluators from their core work. For example, WSH trained psychiatrists to be petitioners in forensic to civil conversion cases. More recently, the hospital assigned a forensically trained psychiatrist to the evaluation unit, reducing the number of vacancies from three to two.

Through the first two quarters of 2013, the Center for Forensic Services frequently had as many as 20 vacant beds. With increased rate of production by evaluators, combined with the additional psychiatry resources the hospital was functionally full for the month of September, with bed vacancies only occurring when there were unscheduled departures, clustered departures, or when counties were unable to transport patients. The passage of HB 1114 is likely to increase bed utilization at the Center for Forensic Services, and Western State Hospital leadership is evaluating options for accommodating patients committed under HB 1114.

Western State Hospital has several current initiatives that may impact bed availability, including increased use of evidence based models of competence restoration, more stringent utilization review, and a pending Value Stream Map project aimed at increasing the efficiency and effectiveness of the admission and transfer process.

Eastern State Hospital

The ESH Forensic Services Unit Clinical Director and Director of Psychology continually review assignments to determine which tasks can be accomplished by psychologists or by other staff who are not assigned competency evaluations.

All forensic evaluators are responsible for completing Forensic Risk Assessments and completing petitions for conversion to civil commitment for those patients they evaluated for competency and went through the restoration process.

Evaluation of the scheduling process and how to schedule evaluator time more efficiently will be done by administrative staff, looking at grouping close communities and having one evaluator spend days at a time in one location rather than commuting to a multitude of distant locations.

ESH is restructuring the duties of the Program Specialist 4 to include the functions of data collection, management and reporting forensic data. This position will work closely with WSH, headquarters and JLARC staff in reports, tracking trends and ensuring identified efficiencies are attained and maintained.

Increased use of Technology

Western State Hospital

The pending migration to the electronic medical record has temporarily placed the technology initiatives on hold. Pending projects include exploring several pathways to reduce time consumed with administrative tasks, record keeping, and travel. The corrections and community units have migrated to a primarily electronic based record system in which orders, discovery, evaluator notes, and testing are scanned and saved to a shared drive, allowing same day access to records at any of our three physical locations. This has resulted in both more efficient use of administrative time, and a reduction in delays related to transporting physical files. Western State Hospital is in the planning stages of a web based calendaring system for scheduling evaluations of out-of-custody defendants. For evaluators in the out-of-custody unit, it is estimated that scheduling currently consumes up to 20% of evaluator time.

Eastern State Hospital

ESH continues to utilize the MILO database (mentally ill legal offender) to summarize data as necessary. These reports are created with existing staff resources. As new areas of collection are identified, the database is modified or new reports are written to gather such requests.

Recruitment and Retention

Western State Hospital

In 2012, there were approximately 3000 referrals to Western State Hospital's Center for Forensic Services. There were over 3300 referrals in 2013. The 22 currently allocated positions would have to average well in excess of productivity standards to match the rate of referral.

Following three consecutive quarters of having three or more evaluator vacancies, the Center successfully filled all but 0.5 evaluator positions, and additional resources were provided by psychiatry, bringing the unit effectively to full staffing. The Western State Hospital CEO has also approved creative strategies to permit recruiting in front of projected vacancies and to hire non-permanent employees during recruitment. These strategies have had an impact, and are projected to have an ongoing impact with several of the evaluators are either currently eligible for retirement or becoming eligible this year. Over the long term, the hospital continues to evaluate the possibility of regional offices in the communities it serves, potentially expanding the recruiting base. As an interim measure, the

Department has also allocated resources pursuant to SB 5551, addressing the staffing shortage by sharing costs with counties that wish to hire contract evaluators.

Eastern State Hospital

ESH continues recruitment efforts to fill existing vacancies. There have been no issues, other than pay, identified with retaining existing forensic evaluators.

One psychiatrist vacancy will be filled on October 1 on the Forensic Services Unit. The hospital is still in the process of recruiting for psychology vacancies and a nationwide recruitment effort is being developed by Human Resources to promote ESH to a wider audience.

Plans for Meeting Requirements to Assure Patients do not Spend Unnecessary Days in Hospital

Following the implementation of RCW 10.77.068, Western State Hospital formalized procedures around periodic communication between treatment teams and evaluators, and set standards for timeliness of evaluator response when a treatment team referred a patient for formal forensic evaluation. The LEAN Value Stream Mapping project focused on forensic restoration that was projected to occur during this quarter will now occur in the first quarter of 2014. Objectives include streamlining the admissions process, identifying specific barriers to competence, individually planning treatment to address barriers, assuring ongoing assessment, and improving communication between the psychiatric treatment team, the rehabilitation and psychoeducation team, and the evaluation team. Western State Hospital is also targeting improved data collection on outcomes in an effort to better establish response to treatment, establish norms, and analyze efficacy of interventions.

Request for Appropriations

RCW 10.77.068 (1)(a) requires the hospital to request additional resources if necessary to meet performance goals. In last quarter's report, it was noted that at current productivity levels, full staff and two additional evaluators would be sufficient to eliminate the waitlist within one year. However, Western State Hospital management wishes to exhaust efficiency initiatives prior to requesting additional evaluator positions. The Hospitals and the Department continue to advocate for salary increases sufficient to retain the existing skilled workforce. By enacting Senate Bill 5551, the legislature has also temporarily increased resources by funding the reimbursement of county retained contractors to perform evaluations. In an effort to be responsible stewards, the hospital will not be making a request for additional evaluators unless or until such time as it becomes clear that targets cannot be met through efficiency increases alone.

Physical space is an issue for both State hospitals. At Eastern State Hospital in particular, there are currently 25 beds on the admission unit which accommodates competency evaluation, competency restoration and admission of patients with not guilty by reason of insanity (NGRI) status for assessment and transfer to the appropriate ward.

CONCLUSION

Substitute Senate Bill 6492 was adopted largely in response to a crisis of rapidly growing referrals and extraordinary wait times for defendants awaiting evaluation at the State Hospitals. Relative to wait times when the bill was passed, there have been reductions in the wait list, and increases in evaluator productivity. Nevertheless, average wait times remain approximately double the performance targets of seven days, and less than 30% of evaluations are conducted within the recommended timeframes. Recruitment and retention continue to be major challenges, and increases in evaluator productivity were offset by vacancies. Vacancies have been predictable and persistent, and options such as over-filling may be supported by the current patterns. It appears unlikely that there will be significant change in the underlying market forces creating shortages of evaluators. Thus, the hospitals are actively pursuing alternative strategies and more efficient allocation of existing resources.