

Report to the Legislature

Timeliness of Services Related to Competency to Proceed or Stand Trial 2014 Annual Report

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

December 1, 2014

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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). 120 beds at WSH are 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.

The Forensic Services Unit at Eastern State Hospital (ESH) has a total of 95 beds. 25 of those beds are designated for pre-trial forensics. The remaining forensic beds are at full capacity with individuals who were found not guilty by reason of insanity.

Substitute Senate Bill (SSB) 6492, now codified in The Revised Code of Washington (RCW) 10.77, was enacted to improve the timeliness of competence evaluation and restoration services.

SSB 6492, Chapter 256, Laws of 2012, Section 2(4) states:

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.

RCW 10.77.068 established performance targets related to evaluating competence and offering restoration services. RCW 10.77.068 also defines 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. This 2014 annual report provides data on the timeliness of services during the reporting period from 10/1/2013 through 9/30/2014. This report then describes the actions the Department of Social and Health Services (DSHS) has taken this year to improve performance. The report also describes some of the improvement actions planned for the coming year.

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

Average Number of Days from Completion of Inpatient Referral (All Discovery Received) to Bed Offer, Competency Evaluations (includes felony and misdemeanor)

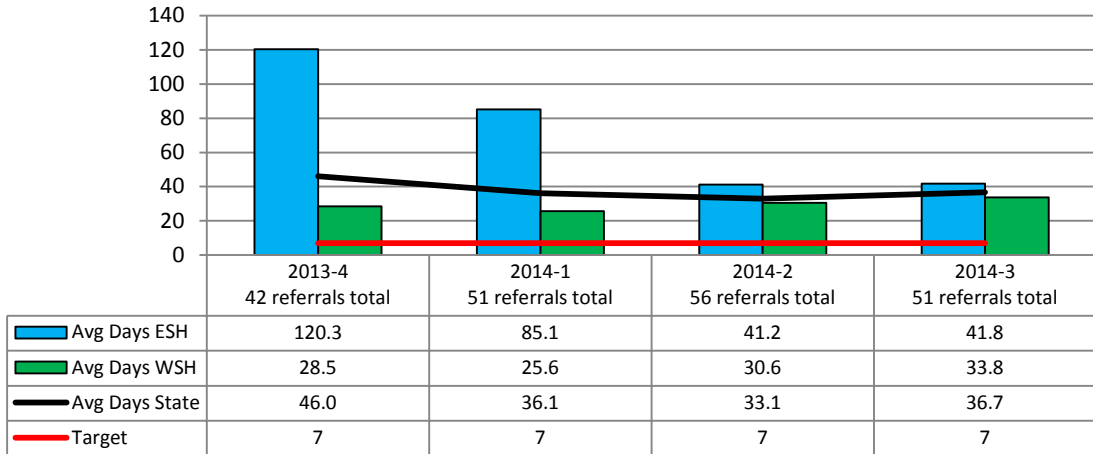
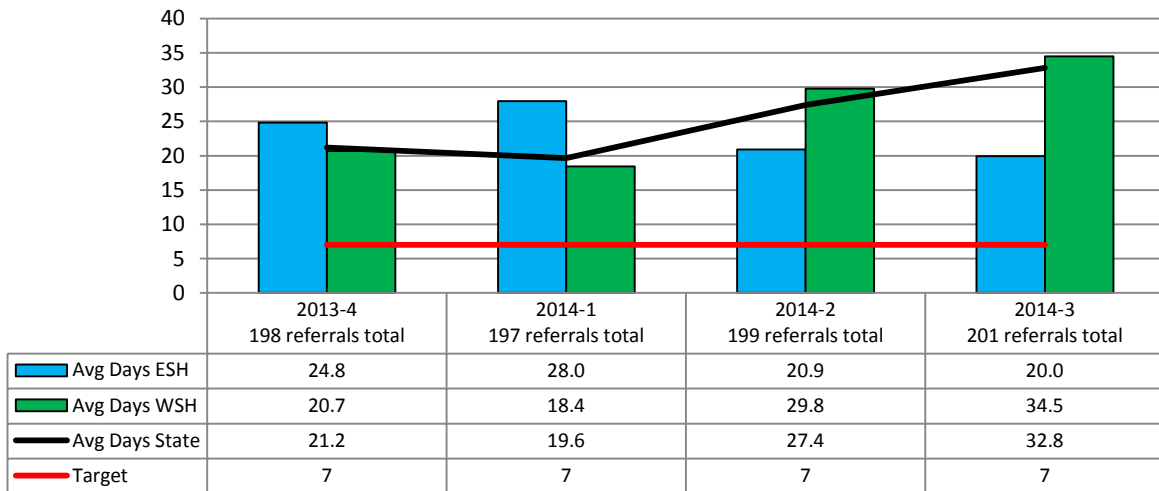


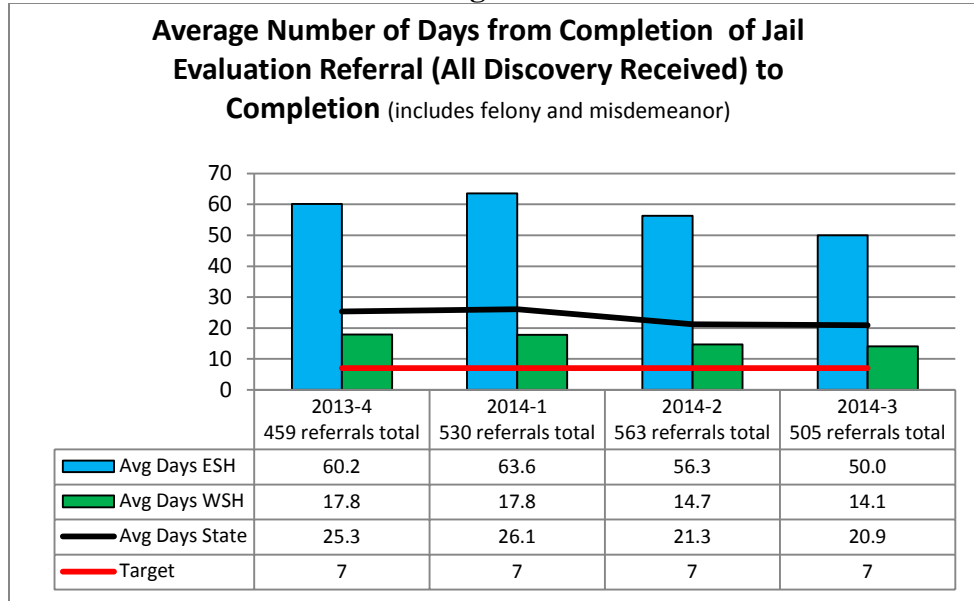
Figure 2

Average Number of Days from Completion of Inpatient Referral (All Discovery Received) to Bed Offer, Competency Restorations (includes felony and misdemeanor)



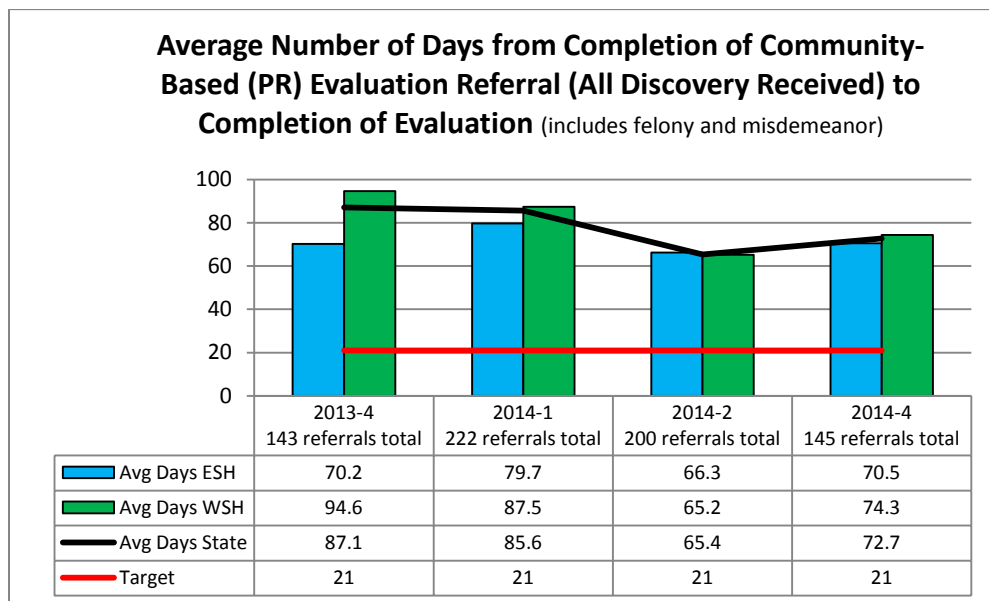
RCW 10.77.068(1)(a)(ii) sets a performance expectation that competency evaluations for a defendant who is in jail will be completed and distributed within seven days or less. Figure 3 shows results for this reporting period.

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 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 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 staff 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 mentioned above) to find local solutions to improving timeliness of forensic mental health services.

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 below provide this information.

Table 1 depicts 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. This time is outside of the control of DSHS and contributes to delays in service.

Table 1
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
10/1/2013 - 9/30/2014

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					1	2.00	1	0.00	1	2.00	1	0.00
ASOTIN					1	26.00	2	5.00	1	26.00	2	5.00
BENTON					5	5.60	14	11.71	5	5.60	14	11.71
CHELAM			1	4.00	3	13.33	9	1.44	3	13.33	10	1.70
CLALLAM	1	1.00	4	2.75					1	1.00	4	2.75
CLARK	12	4.58	64	2.28					12	4.58	64	2.28
COLUMBIA												
COWLITZ	3	0.67	21	1.00					3	0.67	21	1.00
DOUGLAS							1	1.00			1	1.00
FERRY					2	4.00	3	5.67	2	4.00	3	5.67
FRANKLIN					4	3.50	3	61.00	4	3.50	3	61.00
GARFIELD												
GRANT					3	9.67	8	7.13	3	9.67	8	7.13
GRAYS HARBOR	3	5.67	21	2.29					3	5.67	21	2.29
ISLAND			7	1.00							7	1.00
JEFFERSON												
KING	54	1.50	250	1.55					54	1.50	250	1.55
KITSAP	3	5.67	35	7.74					3	5.67	35	7.74
KITTITAS							1	3.00			1	3.00
KLICKITAT					2	48.00			2	48.00		
LEWIS	5	4.60	26	2.12					5	4.60	26	2.12
LINCOLN					1	0.00			1	0.00		
MASON	3	8.67	12	9.33					3	8.67	12	9.33
OKANOGAN					6	11.67	6	20.83	6	11.67	6	20.83
PACIFIC			6	3.67							6	3.67
PEND OREILLE					2	9.00	1	0.00	2	9.00	1	0.00
PIERCE	43	3.98	191	4.24					43	3.98	191	4.24
SAN JUAN												
SKAGIT	8	2.75	8	2.00					8	2.75	8	2.00
SKAMANIA			2	0.50							2	0.50
SNOHOMISH	8	8.63	87	1.68					8	8.63	87	1.68
SPOKANE					17	7.00	34	4.97	17	7.00	34	4.97
STEVENS					1	9.00	1	1.00	1	9.00	1	1.00
THURSTON	4	6.75	56	4.70					4	6.75	56	4.70
WAHIAKUM												
WALLA WALLA							1	7.00			1	7.00
WHATCOM	19	5.95	19	7.53					19	5.95	19	7.53
WHITMAN					1	3.00			1	3.00		
YAKIMA					11	5.27	14	1.36	11	5.27	14	1.36
TOTAL	166	3.76	810	3.04	60	8.72	99	7.77	226	5.06	909	3.56
US DISTRICT COURT							1	11.00				

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

Table 2

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
10/1/2013 - 9/30/2014

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					1	26.00	1	35.00	1	26.00	1	35.00
ASOTIN					1	41.00	2	19.50	1	41.00	2	19.50
BENTON					4	59.50	12	26.42	4	59.50	12	26.42
CHELAN			1	45.00	3	51.67	11	27.55	3	51.67	12	29.00
CLALLAM	1	35.00	2	36.50					1	35.00	2	36.50
CLARK	7	34.00	53	29.15					7	34.00	53	29.15
COLUMBIA												
COWITZ	1	26.00	19	22.32					1	26.00	19	22.32
DOUGLAS							1	15.00			1	15.00
FERRY					2	14.00	2	9.00	2	14.00	2	9.00
FRANKLIN					2	56.00	4	40.25	2	56.00	4	40.25
GARFIELD												
GRANT					2	177.50	11	29.64	2	177.50	11	29.64
GRAYS HARBOR	2	34.00	17	32.24					2	34.00	17	32.24
ISLAND			7	27.14							7	27.14
JEFFERSON			1	22.00							1	22.00
KING	49	29.31	215	24.08					49	29.31	215	24.08
KITSAP	3	24.00	29	33.31					3	24.00	29	33.31
KITITAS							1	8.00			1	8.00
KLICKITAT					1	8.00			1	8.00		
LEWIS	4	31.75	21	30.86					4	31.75	21	30.86
LINCOLN												
MASON	3	11.67	10	31.30					3	11.67	10	31.30
OKANOGAN					3	56.33	6	10.67	3	56.33	6	10.67
PACIFIC			6	21.17							6	21.17
PEND OREILLE					1	47.00	1	0.00	1	47.00	1	0.00
PIERCE	43	29.95	162	27.45					43	29.95	162	27.45
SAN JUAN												
SKAGIT	8	28.13	9	37.33					8	28.13	9	37.33
SKAMANIA			2	27.50							2	27.50
SNOHOMISH	10	33.00	78	22.81					10	33.00	78	22.81
SPOKANE					9	65.67	30	31.83	9	65.67	30	31.83
STEVENS					1	40.00	1	40.00	1	40.00	1	40.00
THURSTON	4	30.25	51	28.90					4	30.25	51	28.90
WAHIAKUM												
WALLA WALLA							2	17.00			2	17.00
WHATCOM	16	34.19	17	24.18					16	34.19	17	24.18
WHITMAN					1	8.00			1	8.00		
YAKIMA					9	61.44	11	35.91	9	61.44	11	35.91
TOTAL	151	30.12	700	26.54	40	59.27	96	28.23	191	36.23	796	26.75

Table 3 depicts 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. This time is outside of the control of DSHS and contributes to delays in service.

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, for Personal Recognizance).

Table 3

**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
10/1/2013 - 9/30/2014**

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	5.00	1	2.00	3	5.00	1	2.00
ASOTIN					8	12.88	2	7.50	8	12.88	2	7.50
BENTON					69	9.00	64	9.75	69	9.00	64	9.75
CHELAN					28	11.07	26	15.69	28	11.07	26	15.69
CLALLAM	20	4.95	7	3.00					20	4.95	7	3.00
CLARK	157	5.12	64	6.55					157	5.12	64	6.55
COLUMBIA							1	2.00			1	2.00
COWLITZ	21	2.33	11	24.82					21	2.33	11	24.82
DOUGLAS					2	3.00	1	10.00	2	3.00	1	10.00
FERRY					2	11.50	1	6.00	2	11.50	1	6.00
FRANKLIN					34	5.38	17	4.76	34	5.38	17	4.76
GARFIELD												
GRANT					27	12.74	5	14.60	27	12.74	5	14.60
GRAYS HARBOR	46	3.00	10	2.60					46	3.00	10	2.60
ISLAND	11	4.36	3	16.00					11	4.36	3	16.00
JEFFERSON	3	0.33	2	22.00					3	0.33	2	22.00
KING	882	1.47	308	4.55			1	15.00	882	1.47	309	4.58
KITSAP	63	3.65	28	3.57					63	3.65	28	3.57
KITTITAS					10	9.80	1	2.00	10	9.80	1	2.00
KLICKITAT					1	7.00			1	7.00		
LEWIS	45	3.33	9	9.22					45	3.33	9	9.22
LINCOLN					2	28.00	1	28.00	2	28.00	1	28.00
MASON	32	6.00	30	3.27					32	6.00	30	3.27
OKANOGAN					15	6.33	10	10.30	15	6.33	10	10.30
PACIFIC	4	6.25	3	60.00					4	6.25	3	60.00
PEND ORELLE					1	8.00	3	5.67	1	8.00	3	5.67
PIERCE	168	3.13	84	8.39					168	3.13	84	8.39
SAN JUAN												
SKAGIT	19	3.16	8	7.13					19	3.16	8	7.13
SKAMANIA	1	5.00	1	18.00					1	5.00	1	18.00
SNOHOMISH	158	3.25	47	19.02					158	3.25	47	19.02
SPOKANE	1	0.00			133	7.06	75	7.97	134	7.01	75	7.97
STEVENS			1	1.00	6	7.83	7	17.71	6	7.83	8	15.62
THURSTON	111	2.70	59	6.29					111	2.70	59	6.29
WAHIAKUM	1	3.00							1	3.00		
WALLA WALLA					3	6.00	2	12.00	3	6.00	2	12.00
WHATCOM	46	6.35	7	49.71					46	6.35	7	49.71
WHITMAN					2	2.50			2	2.50		
YAKIMA					83	11.51	33	14.03	83	11.51	33	14.03
TOTAL	1789	2.65	682	7.46	429	8.94	251	10.34	2218	3.86	933	8.23
US DISTRICT COURT							1	15.00				

Table 4 describes the delay between receiving a complete referral for outpatient evaluation and the date the evaluation begins. 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, for Personal Recognizance).

Table 4

**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
10/1/2013 - 9/30/2014**

COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	JAIL		PR		JAIL		PR		JAIL		PR	
	# Reports Faxed	Average Days to Fax	# Reports Faxed	Average Days to Fax	# Reports Faxed	Average Days to Fax	# Reports Faxed	Average Days to Fax	# Reports Faxed	Average Days to Fax	# Reports Faxed	Average Days to Fax
ADAMS					1	81	1	128.00	1	81.00	1	128.00
ASOTIN					7	74.29			7	74.29		
BENTON					57	63.86	42	92.74	57	63.86	42	92.74
CHELAM					22	46.45	20	63.00	22	46.45	20	63.00
CLALLAM	20	16.75	2	159.00					20	16.75	2	159.00
CLARK	146	17.34	53	75.91					146	17.34	53	75.91
COLUMBIA							1	103.00			1	103.00
COWLITZ	19	22.63	11	113.82					19	22.63	11	113.82
DOUGLAS					1	64.00			1	64.00		
FERRY					2	64.50	1	41.00	2	64.50	1	41.00
FRANKLIN					28	64.82	11	79.18	28	64.82	11	79.18
GARFIELD												
GRANT					24	56.67	6	93.67	24	56.67	6	93.67
GRAYS HARBOR	42	16.17	6	71.17					42	16.17	6	71.17
ISLAND	10	17.70							10	17.70		
JEFFERSON	2	10.50							2	10.50		
KING	788	18.33	180	100.66					788	18.33	180	100.66
KITSAP	60	16.75	19	96.00					60	16.75	19	96.00
KITTITAS					6	82.83	4	62.75	6	82.83	4	62.75
KLICKITAT					1	125.00			1	125.00		
LEWIS	43	19.12	4	95.75					43	19.12	4	95.75
LINCOLN					1	96.00			1	96.00		
MASON	33	15.85	11	91.09					33	15.85	11	91.09
OKANOGAN					12	57.58	5	81.00	12	57.58	5	81.00
PACIFIC	4	10.75							4	10.75		
PEND OREILLE							1	38.00			1	38.00
PIERCE	165	19.30	51	87.14					165	19.30	51	87.14
SAN JUAN												
SKAGIT	20	17.40	5	158.40					20	17.40	5	158.40
SKAMANIA	1	17.00	1	57.00					1	17.00	1	57.00
SNOHOMISH	141	16.40	26	83.15					141	16.40	26	83.15
SPOKANE					125	60.89	58	57.62	125	60.89	58	57.62
STEVENS					10	49.20	9	70.56	10	49.20	9	70.56
THURSTON	108	16.55	31	89.52					108	16.55	31	89.52
WAHIAKUM	1	17.00							1	17.00		
WALLA WALLA					1	62.00	1	85.00	1	62.00	1	85.00
WHATCOM	41	21.41	9	114.11					41	21.41	9	114.11
WHITMAN					2	84.00			2	84.00		
YAKIMA					72	48.54	29	73.90	72	48.54	29	73.90
TOTAL	1644	17.98	409	94.39	372	58.79	189	72.80	2016	25.51	598	87.57