

REPORT TO THE LEGISLATURE

Timeliness of Services Related to Competency to Stand Trial 2022 Annual Report October 1, 2021 – September 30, 2022

Substitute Senate Bill 6492, Section 2(4), (Chapter 256, Laws of 2012)
As amended by Second Substitute Senate Bill 5664, Section 3
(Chapter 288, Laws of 2022; partial veto) RCW 10.77.068(8)

January 15, 2023

Behavioral Health Administration
Office of Forensic Mental Health Services
PO Box 45050
Olympia, WA 98504-5050
(360) 725-3820
[https://www.dshs.wa.gov/bha/
office-forensic-mental-health-services](https://www.dshs.wa.gov/bha/office-forensic-mental-health-services)



Contents

BACKGROUND.....	3
COMPETENCY EVALUATION AND RESTORATION DATA	7
DATA ANALYSIS AND DISCUSSION	8
SECTION 1: STATEWIDE FORENSIC SYSTEM DATA.....	9
SECTION 2: COUNTY FORENSIC SYSTEM DATA.....	19
County-level results.....	19
SECTION 3: ACTIONS TAKEN.....	26
Building workforce and addressing staffing challenges.....	26
Expanding bed capacity.....	27
Decreasing demand for competency services.....	27
NEXT STEPS.....	29
SUMMARY.....	29

BACKGROUND

Substitute Senate Bill 6492 (Chapter 256, Laws of 2012) was enacted by the 2012 Legislature to improve the timeliness of competency evaluation and restoration services. Section 2(4)¹ of that law states the following in requiring this report:

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.

In 2022, Second Substitute Senate Bill 5664 (Chapter 288, Laws of 2022; partial veto) was enacted by the Legislature to implement several policy changes and alignment in competency services timelines between statutory state targets and Trueblood requirements. The effects on this annual report are minor: (1) Changes the authorizing section of the statute; (2) Changes the report's due date; and (3) Removes technical language without impact on the statutory requirement. The new legislative requirement for this annual report, now in Section 3(8) indicates the following:

The department shall report annually to the legislature and the executive on the timeliness of services related to competency to 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.

¹ 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 SSB 5889 (Chapter 5, Laws of 2015). That law retained the seven-day performance targets for completion of competency to stand trial services, and established maximum time limits for the completion of those services. In 2022, Section 3 of 2SSB 5664 (Chapter 288, Laws of 2022; partial veto) further amended the performance targets and maximums to align more closely, in most cases, with the federal court's requirements in the Trueblood decision.

As required, this 2022 annual² report provides data on the timeliness of competence to stand trial services during the Oct. 1, 2021 through Sept. 30, 2022 reporting period. Covering the same period, this report also provides the requested data on 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. 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 violated 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. This appeal resulted in in-custody evaluations being granted a completion deadline of 14 days from court order signature. In response, the Legislature appropriated funding to address the court's findings.

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

On Sept. 30, 2016, the Forensic Services Unit at ESH had a total of 125 beds with 55 of those beds designated as pre-trial evaluation and treatment forensic beds. The remaining forensic beds housed people 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 (temporary site closed July 26, 2021). These additional beds were opened to help manage the state's waitlist for inpatient services. In August 2019, BHA opened a third residential treatment facility, Fort Steilacoom Competency Restoration Program 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 Agreement's final implementation plan occurred in late June 2019, in time to allow Phase 1 of the Settlement Agreement to start implementation concurrent with the state's 2019-2021 budget biennium.

² In the 2022 statute change, a specific annual report due date was deleted in favor of an annual requirement. At this time, the department intends to continue with an annualized reporting period of October 1-September 30 with the report delivered to the Legislature around January 1.

During the Oct. 1, 2021-Sept. 30, 2022 reporting period, the Legislature appropriated funding toward SSB 6492 as amended, the original April 2015 Trueblood decision as amended, and the now in-progress Settlement Agreement's final implementation plan for Phase 2. The Legislature further amended SSB 6492 through 2SSB 5664, which took effect on June 9, 2022, substantially amending the reporting requirements for the quarterly legislative report originating from the same statutes. Items listed below are current department initiatives related to SSB 6492 as amended and the Trueblood Contempt Settlement Agreement.

- Staffing challenges at the Eastern Regional Office during Q3-Q4 2021 that continued into Q1 and Q2 2022 exacerbated inefficiencies in evaluation scheduling practices for forensic evaluators who complete all forensic evaluations on the east side of Washington state. OFMHS has submitted a decision package as part of assuming scheduling for all of our evaluators and has been working on aligning scheduling processes across the state. Scheduling process unification and implementation continued in Q2 2022 and early results have been promising. A strong team is excited and engaged in this transformative effort. Additionally, evaluators and supervisors from the west side have assisted in tackling the competency services case backlog to help the east side become more current in their evaluations.
- Through the Demand to Bargain process, eastside evaluators transitioned from workload expectations of nine evaluations per month to 12 evaluations per month. This change has taken several months to implement. After implementation, workloads on both sides of the state now match. Furthermore, a Demand to Bargain was completed in September 2022 to allow DSHS to contract both in-state and out-of-state forensic evaluators to assist with referrals.
- On July 5, 2022, OFMHS implemented a new process to allow suitable RTF clients on their second period of restoration to transition to outpatient restoration. Significant collaboration among Forensic Navigators, the Outpatient Competency Restoration Program, the RTFs, and the criminal court system have allowed this new effort to reduce demand and increase throughput of higher acuity beds to come to fruition. The new process allows clients to access significant community resources to aid in their restoration and provides more bed turnover at RTFs allowing patients with greater acuity admission to those beds. The initial clients identified and referred for participation have undergone an assessment for OCRP suitability conducted by a Forensic Navigator. In the initial cases, the clients were found competent, and therefore were not referred to OCRP; however, their RTF beds were freed for other higher acuity clients.
- For the 12 months ended in September 2022, use of telehealth services continued

to grow having reached more than 223 completed evaluations per month on average. Defense attorneys and clients continued to use the system with very few rejections. The refusal rate was 2.2 percent of attempts over the last 12 months (majority of refusals were from patients). Telehealth systems' reach across the state continued to grow as well. Telehealth systems have been used for evaluations at three Tribal corrections facilities; 11 city/regional jail locations; in 32 different counties with 34 total locations; and in five DSHS inpatient facilities (including the Yakima RTF that closed on July 26, 2021). The OFMHS Telehealth committee provides IT and ongoing site support for existing telehealth sites and works to identify and evaluate new sites to begin offering telehealth services.

COMPETENCY EVALUATION AND RESTORATION DATA

RCW 10.77.068 was originally enacted in 2012 as SSB 6492. It was amended by SSB 5889 in 2015 and further amended by 2SSB 5664 in 2022. RCW 10.77.068 as originally implemented established various performance targets for The Department of Social and Health Services to meet in completing competency services. The 2015 amendments from SSB 5889 added performance maximums, and the 2022 amendments brought many of the performance targets and maximums in close alignment with the federal Trueblood settlement. Below are the performance expectations detailed in the 2022 version of RCW 10.77.068, which took effect on June 9, 2022:

(1)(a) [e]xtend an offer of admission to a defendant in pretrial custody for inpatient competency evaluation or inpatient competency restoration services, when access to the services is legally authorized (target = 7 days or fewer); or

The subsection below provides for a maximum time limit to complete competency services authorized by subsection (1)(a) listed above.

(2)(a) A maximum time limit of seven days as measured from the department's receipt of the court order, or a maximum time limit of 14 days as measured from signature of the court order, whichever is shorter, is established to complete the services specified in subsection (1)(a).

The series of subsections below establish performance targets and maximums for jail-based evaluations and civil conversion cases:

(1)(b) The legislature establishes a performance target of 14 days or fewer for the following services related to competency to stand trial, when access to the services is legally authorized:

(1)(b)(i) To complete a competency evaluation in jail and distribute the evaluation report; and

(1)(b)(ii) To extend an offer of admission to a defendant ordered to be committed to a state hospital following dismissal of charges based on incompetency to stand trial under RCW 10.77.086.

The final subsection below provides a performance target for personal recognizance evaluations:

(1)(c) The legislature establishes a performance target of 21 days or fewer to complete a competency evaluation in the community and distribute the evaluation report.

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 [OFMHS Trueblood](#).

On the following pages, Tables 1-5 present the statewide forensic system data.

SECTION 1: STATEWIDE FORENSIC SYSTEM DATA

Table 1: Average number of days from referral completion (all documents received) to WSH inpatient competency services provided.

TABLE 1: WSH INPATIENT COMPETENCY ADMISSIONS				
COUNTY	EVALUATIONS		RESTORATIONS	
	COURT ORDERS WITH ADMISSIONS	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED	COURT ORDERS WITH ADMISSIONS	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED
ADAMS	0		0	
ASOTIN	0		2	27.0
BENTON	0		8	48.8
CHELAN	0		3	63.0
CLALLAM	1	29.0	30	33.1
CLARK	3	27.0	104	43.9
COLUMBIA	0		0	
COWLITZ	3	12.3	46	39.7
DOUGLAS	0		0	
FERRY	0		0	
FRANKLIN	0		1	77.0
GARFIELD	0		0	
GRANT	0		0	
GRAYS HARBOR	0		51	61.6
ISLAND	0		18	50.7
JEFFERSON	0		3	68.0
KING	59	69.0	343	48.3
KITSAP	5	34.2	61	50.8
KITTITAS	0		1	57.0
KLICKITAT	0		0	
LEWIS	2	10.0	38	45.1
LINCOLN	0		0	
MASON	2	27.5	26	28.3
OKANOGAN	0		0	
PACIFIC	0		6	17.7
PEND OREILLE	0		0	
PIERCE	12	35.4	322	49.1
SAN JUAN	0		0	
SKAGIT	1	0.0	37	78.3
SKAMANIA	0		3	52.3
SNOHOMISH	3	39.0	54	68.0
SPOKANE	0		7	35.7
STEVENS	0		0	
THURSTON	7	90.3	76	40.3
WAHKIAKUM	0		3	55.3
WALLA WALLA	0		2	71.5
WHATCOM	21	26.0	122	42.2
WHITMAN	0		0	
YAKIMA	0		7	52.7
TOTAL:	119	51.8	1374	48.3

DSSH Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Table 1. Represents WSH wait times from referral completion to inpatient competency services provided.

Outcomes: During the Oct. 1, 2021-Sept. 30, 2022, reporting period, WSH had average days waiting of 51.8 days (41.8 days in the previous reporting period) from the time all documents were received from the referring county until the patient could be admitted for an inpatient competency evaluation. For inpatient competency restoration services, average days waiting from completed referral to admission were 48.3 days (40.3 days in the previous reporting period).

Drivers: Q4 2021 through Q2 2022, COVID-19 caused the most significant impacts in the state hospital system as first, the Delta variant and then Omicron and its subvariants severely impacted the state's behavioral health systems and its ability to admit patients. As the COVID-19 crisis finally began to ease going into summer and Q3 2022, the department has continued to grapple with a nationwide workforce shortage in various healthcare fields and a backlog of competency referrals.

As forensic admissions slowed, due to COVID-19 cases, wait times have increased, civil patients have occupied greater numbers of forensic beds without an ability to move to community settings or conditional release quickly enough to prevent rapid growth in the forensic waitlist. More beds coming online in the next few months will hopefully begin to ease this challenging confluence of circumstances between the pandemic, increasing referrals, nationwide staffing shortages, and the growing demand for beds.

Table 2: Average number of days from referral completion (all documents received) to ESH inpatient competency services provided.

TABLE 2: ESH INPATIENT COMPETENCY ADMISSIONS				
COUNTY	EVALUATIONS		RESTORATIONS	
	COURT ORDERS WITH ADMISSIONS	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED	COURT ORDERS WITH ADMISSIONS	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED
ADAMS	0		3	17.7
ASOTIN	1	16.0	2	73.0
BENTON	19	56.4	67	47.7
CHELAN	3	26.7	18	46.4
CLALLAM	0		0	
CLARK	0		1	84.0
COLUMBIA	0		2	36.5
COWLITZ	0		0	
DOUGLAS	2	30.0	2	0.0
FERRY	0		5	47.6
FRANKLIN	2	32.0	31	69.6
GARFIELD	0		0	
GRANT	19	58.2	33	55.7
GRAYS HARBOR	0		0	
ISLAND	0		0	
JEFFERSON	0		0	
KING	0		2	62.5
KITSAP	0		0	
KITTITAS	5	50.4	2	0.5
KLICKITAT	1	53.0	2	0.0
LEWIS	0		0	
LINCOLN	0		0	
MASON	0		0	
OKANOGAN	7	37.9	26	38.2
PACIFIC	0		0	
PEND OREILLE	2	78.0	0	
PIERCE	0		1	0.0
SAN JUAN	0		0	
SKAGIT	0		0	
SKAMANIA	0		0	
SNOHOMISH	0		0	
SPOKANE	9	56.7	35	62.6
STEVENS	1	44.0	4	34.5
THURSTON	0		0	
WAHKIAKUM	0		0	
WALLA WALLA	1	59.0	9	44.2
WHATCOM	0		1	97.0
WHITMAN	0		0	
YAKIMA	7	85.9	54	45.8
TOTAL:	79	54.9	300	50.2

DSHS Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Table 2. Represents ESH wait times from referral completion to inpatient competency services provided.

Outcomes: During the Oct. 1, 2021- Sept. 30, 2022, reporting period, ESH had average days waiting of 54.9 days (40.2 days in the previous reporting period) from the time all documents were received from the referring county until the patient could be admitted for an inpatient competency evaluation. For inpatient competency restoration services, average days waiting from completed referral to admission were 50.2 days (29.4 days in the previous reporting period).

Drivers: Q4 2021 through Q2 2022, COVID-19 caused the most significant impacts in the state hospital system as first, the Delta variant and then Omicron and its subvariants severely impacted the state's behavioral health systems and its ability to admit patients. As the COVID-19 crisis finally began to ease going into summer and Q3 2022, the department has continued to grapple with a nationwide workforce shortage in various healthcare fields and a backlog of competency referrals.

As forensic admissions slowed, due to COVID-19 cases, wait times have increased, civil patients have occupied greater numbers of forensic beds without an ability to move to community settings or conditional release quickly enough to prevent rapid growth in the forensic waitlist. More beds coming online in the next few months will hopefully begin to ease this challenging confluence of circumstances between the pandemic, increasing referrals, nationwide staffing shortages, and the growing demand for beds.

Table 3: Average number of days from referral completion (all documents received) to outpatient evaluation services provided at WSH.

TABLE 3: WSH OUTPATIENT COMPETENCY EVALUATIONS COMPLETED				
COUNTY	JAIL		PR	
	COURT ORDERS WITH REPORTS FAXED	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED	COURT ORDERS WITH REPORTS FAXED	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED
ADAMS	0		0	
ASOTIN	0		0	
BENTON	0		0	
CHELAN	0		0	
CLALLAM	87	14.1	11	203.3
CLARK	332	12.7	18	131.8
COLUMBIA	0		0	
COWLITZ	183	13.6	13	124.6
DOUGLAS	0		0	
FERRY	0		0	
FRANKLIN	0		0	
GARFIELD	0		0	
GRANT	0		0	
GRAYS HARBOR	121	12.2	17	191.9
ISLAND	34	12.8	7	154.6
JEFFERSON	9	13.1	3	197.0
KING	1817	14.1	240	136.5
KITSAP	178	14.1	22	134.9
KITTITAS	0		0	
KLICKITAT	8	16.5	2	149.0
LEWIS	89	12.3	3	433.3
LINCOLN	0		0	
MASON	68	12.0	4	128.5
OKANOGAN	0		0	
PACIFIC	10	14.2	1	212.0
PEND OREILLE	0		0	
PIERCE	796	12.6	75	110.8
SAN JUAN	6	17.3	11	105.9
SKAGIT	94	12.9	10	176.0
SKAMANIA	5	18.8	0	
SNOHOMISH	372	12.9	66	138.5
SPOKANE	0		0	
STEVENS	0		0	
THURSTON	170	13.8	49	125.3
WAHKIAKUM	5	10.8	2	144.0
WALLA WALLA	1	15.0	1	44.0
WHATCOM	221	13.9	15	252.7
WHITMAN	0		1	56.0
YAKIMA	0		0	
TOTAL:	4606	13.5	571	139.8

DSHS Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Table 3. Displays the average number of days from order completion to services provided at WSH for outpatient orders with clients waiting in jail or in the community (PR).

Outcomes: WSH took, on average, 13.5 days to complete a jail-based evaluation (as compared to 13.0 days in the 2021 reporting period) and 139.8 days to complete a PR evaluation (as compared to 135.2 days in 2021).

Drivers: The average referral completion timeframe for jail-based and PR evaluations at WSH was modestly higher but largely little changed in comparison to the previous reporting period.

Table 4: Average number of days from referral completion (all documents received) to outpatient evaluation services provided at ESH.

TABLE 4: ESH OUTPATIENT COMPETENCY EVALUATIONS COMPLETED				
COUNTY	JAIL		PR	
	COURT ORDERS WITH REPORTS FAXED	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED	COURT ORDERS WITH REPORTS FAXED	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED
ADAMS	9	15.9	2	65.5
ASOTIN	9	23.7	1	28.0
BENTON	182	19.5	14	251.4
CHELAN	70	17.3	6	150.3
CLALLAM	0		0	
CLARK	0		0	
COLUMBIA	11	22.0	2	149.0
COWLITZ	0		0	
DOUGLAS	19	21.5	2	40.0
FERRY	11	20.9	0	
FRANKLIN	130	18.3	7	173.1
GARFIELD	1	20.0	0	
GRANT	88	18.7	9	60.8
GRAYS HARBOR	0		0	
ISLAND	0		0	
JEFFERSON	0		0	
KING	0		0	
KITSAP	0		0	
KITTITAS	15	20.7	1	364.0
KLICKITAT	1	14.0	1	364.0
LEWIS	0		0	
LINCOLN	7	17.4	3	96.3
MASON	0		0	
OKANOGAN	44	17.8	13	132.8
PACIFIC	0		0	
PEND OREILLE	0		0	
PIERCE	0		0	
SAN JUAN	0		0	
SKAGIT	0		0	
SKAMANIA	0		0	
SNOHOMISH	0		0	
SPOKANE	359	18.9	31	221.5
STEVENS	16	21.4	2	199.0
THURSTON	0		0	
WAHKIAKUM	0		0	
WALLA WALLA	41	20.3	2	127.5
WHATCOM	0		0	
WHITMAN	3	9.7	1	66.0
YAKIMA	204	21.9	19	268.5
TOTAL:	1220	19.4	116	190.9

DSHS Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Table 4. Displays the average number of days from order completion to services provided at ESH for outpatient orders with clients waiting in jail or in the community (PR).

Outcomes: ESH took, on average, 19.4 days to complete a jail-based evaluation (as compared to 14.0 days in the 2021 reporting period) and 190.9 days to complete a PR evaluation (as compared to 191.2 days in 2021). During the pandemic, non-Trueblood PR cases' average days to completion of evaluation continued to increase; however, due to factors outlined below, the pandemic precipitated an accelerated increase in average days to completion.

Drivers: During the pandemic shutdowns and state hospital COVID-19 outbreaks, a greater number of cases were released into the community to await further proceedings. Prosecutors routinely allowed PR cases to remain in the community without further action as the criminal court systems worked to contain the spread of COVID-19 within jails and court dockets were reduced to handle only the most pressing cases. As a result, average days to completion for PR cases increased to record levels, particularly at ESH, before subsiding or levelling off as the criminal court system began to re-open more broadly and as the state hospital system experienced fewer COVID-19 outbreaks. Staffing vacancies, as part of the nationwide health care staffing shortage, have further challenged compliance with legislative and Trueblood targets. This has impacted the department's ability to staff critical care positions, and ESH and OFMHS' Eastern Regional Office have been short several forensic evaluators and support staff.

Table 5. Describes outpatient restoration admissions and the days on average from referral completion to treatment start by county, hospital, and order type.

OCPRP OUTPATIENT COMPETENCY RESTORATION ADMISSIONS				
COUNTY	JAIL		PR	
	COURT ORDERS WITH PROGRAM STARTS	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED	COURT ORDERS WITH PROGRAM STARTS	AVERAGE DAYS FROM ALL DOCUMENTS RECEIVED TO SERVICES PROVIDED
ADAMS	0		0	
ASOTIN	0		0	
BENTON	0		0	
CHELAN	0		0	
CLALLAM	0		0	
CLARK	0		14	2.3
COLUMBIA	0		0	
COWLITZ	0		0	
DOUGLAS	0		0	
FERRY	0		0	
FRANKLIN	0		0	
GARFIELD	0		0	
GRANT	0		0	
GRAYS HARBOR	0		0	
ISLAND	0		0	
JEFFERSON	0		0	
KING	0		0	
KITSAP	0		0	
KITTITAS	0		0	
KLICKITAT	0		1	30.0
LEWIS	0		0	
LINCOLN	0		0	
MASON	0		0	
OKANOGAN	0		0	
PACIFIC	0		0	
PEND OREILLE	0		0	
PIERCE	0		9	4.8
SAN JUAN	0		0	
SKAGIT	0		0	
SKAMANIA	0		0	
SNOHOMISH	0		0	
SPOKANE	5	2.2	5	3.2
STEVENS	0		1	8.0
THURSTON	0		0	
WAHIAKUM	0		0	
WALLA WALLA	0		0	
WHATCOM	0		0	
WHITMAN	0		0	
YAKIMA	0		0	
TOTAL:	5	2.2	30	4.3

DSSH Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Table 5. Describes admissions to outpatient competency restoration, by county, from referral completion (all documents received) to program admissions.

Outcomes: The Trueblood Phase 1 Outpatient Competency Restoration Programs operated by HCA and their contractors, are now active in the three Phase 1 regions consisting of 10 counties. Two of the programs opened July 1, 2020 on schedule. The third program in the southwest Washington region opened on September 1. The Phase 1 programs all have more than two years of experience serving clients. In the 2022-2023 annual report, Phase 2 OCRP data from the King region should be available.

Drivers: To comply with statute and the Trueblood decision, clients with completed OCRP referrals need to be admitted into treatment within seven-days on average. The OCRP programs are all in compliance on average. The two counties with single cases that have individually exceeded the average have extremely small case numbers.

SECTION 2: COUNTY FORENSIC SYSTEM DATA

County-level results

In 2012, SSB 6492 Section 2 established a requirement in RCW 10.77.068(4) that the department annually report beginning on Dec. 1, 2013:

[t]imeliness 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.

In 2022, 2SSB 5564 Section 3 amended RCW 10.77.068(4) by changing the subsection to RCW 10.77.068(8) and removing the report's due date of December 1. The remaining statute language referenced above, for this section of the report, remains in effect and unchanged.

Tables 6 through 8 on the following pages provide the information indicated above as required by SSB 6492 as amended.

Table 6. Describes the number of days counties took to complete referral for inpatient competency services, from order signature until the county forwarded all documents necessary for complete referral.

**Number of Inpatient Competency Evaluation and Restoration Orders Received and
Average Number of Days from Order Signature to All Documents Received**

By County, Hospital, and Order Type

10/1/2021 - 9/30/2022

COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS	
	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received
Adams							7	0.1			7	0.1
Asotin			2	0.5	5	6.2	2	0.0	5	6.2	4	0.3
Benton			14	0.4	25	0.5	86	0.7	25	0.5	100	0.6
Chelan			4	1.5	6	0.3	36	2.9	6	0.3	40	2.8
Clallam	6	0.2	56	1.5					6	0.2	56	1.5
Clark	5	0.0	167	1.1			1	0.0	5	0.0	168	1.1
Columbia							2	0.5			2	0.5
Cowlitz	4	0.3	106	1.0					4	0.3	106	1.0
Douglas			2	0.0	6	0.2	5	1.4	6	0.2	7	1.0
Ferry							6	4.2			6	4.2
Franklin			6	0.7	4	2.3	55	5.7	4	2.3	61	5.2
Garfield												
Grant			1	0.0	30	1.1	58	1.1	30	1.1	59	1.1
Grays Harbor	3	0.7	59	0.9					3	0.7	59	0.9
Island	1	0.0	22	0.4					1	0.0	22	0.4
Jefferson			6	0.0							6	0.0
King	83	1.3	717	0.4			2	0.0	83	1.3	719	0.4
Kitsap	10	0.0	114	0.7					10	0.0	114	0.7
Kittitas			1	1.0	9	0.9	7	2.3	9	0.9	8	2.1
Klickitat					2	2.5	4	0.0	2	2.5	4	0.0
Lewis	2	0.5	48	0.2					2	0.5	48	0.2
Lincoln			1	1.0			3	0.0			4	0.3
Mason	4	3.0	52	0.4					4	3.0	52	0.4

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

Table 6 continues on the following page.

COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS	
	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received
Okanogan					16	4.4	36	2.6	16	4.4	36	2.6
Pacific	2	0.0	8	0.4					2	0.0	8	0.4
Pend Oreille					1	1.0			1	1.0		
Pierce	17	0.4	415	1.7			1	0.0	17	0.4	416	1.7
San Juan			4	3.5							4	3.5
Skagit	6	0.2	70	0.8					6	0.2	70	0.8
Skamania			1	1.0							1	1.0
Snohomish	8	0.1	203	2.2					8	0.1	203	2.2
Spokane			16	4.0	31	1.1	115	2.3	31	1.1	131	2.5
Stevens			2	1.0	1	0.0	6	0.7	1	0.0	8	0.8
Thurston	9	0.2	149	3.9					9	0.2	149	3.9
Wahkiakum			3	5.0							3	5.0
Walla Walla			3	0.3	2	0.5	22	0.9	2	0.5	25	0.8
Whatcom	28	0.5	182	1.0			1	0.0	28	0.5	183	1.0
Whitman					1	3.0			1	3.0		
Yakima			15	0.4	21	1.1	102	0.4	21	1.1	117	0.4
TOTAL	188	0.77	2449	1.19	160	1.47	557	1.82	348	1.1	3006	1.3

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

DSHS Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Outcomes: During this reporting period, counties in the WSH catchment area took 0.77 and 1.19 days (for evaluation referrals and restoration referrals, respectively) to get completed referral packets to WSH. Counties in the ESH catchment area took 1.47 and 1.82 days respectively. These numbers have fluctuated over a number of reporting cycles. In WSH’s case, this year’s change was mixed and slight. For ESH, time to receive all documents for evaluations nearly doubled and for restorations a significant increase occurred.

Drivers: Both ESH and WSH have experienced significant impacts to operations due to COVID-19’s Delta and Omicron variants; however, counties in ESH’s catchment areas seem to experience greater challenges in the timely distribution of referral packets to ESH, which causes delays in the timely processing of referrals.

Table 7. Describes the number of days counties took to complete a referral for outpatient competency services from order signature to the time the county forwarded all documents necessary for a complete referral. Outpatient competency services are categorized by defendant’s status of in custody (labeled as Jail) or in the community (labeled as PR).

**Number of Outpatient Competency Evaluation Orders Received and
Average Number of Days from Order Signature to All Documents Received**

By County, Hospital, and Order Type

10/1/2021 - 9/30/2022

COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	JAIL		PR		JAIL		PR		JAIL		PR	
	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received
Adams					8	2.0	4	9.5	8	2.0	4	9.5
Asotin					11	5.3	2	10.0	11	5.3	2	10.0
Benton					221	1.9	69	0.9	221	1.9	69	0.9
Chelan					71	2.6	31	3.6	71	2.6	31	3.6
Clallam	100	0.7	27	7.4					100	0.7	27	7.4
Clark	352	0.8	64	3.3					352	0.8	64	3.3
Columbia					11	0.4	4	2.0	11	0.4	4	2.0
Cowlitz	196	0.6	75	0.7					196	0.6	75	0.7
Douglas					21	2.0	11	1.2	21	2.0	11	1.2
Ferry					10	1.4	6	11.2	10	1.4	6	11.2
Franklin			1	42.0	152	2.3	30	1.3	152	2.3	31	2.6
Garfield					1	0.0			1	0.0		
Grant			1	0.0	102	0.8	28	0.3	102	0.8	29	0.3
Grays Harbor	136	0.8	34	2.1			3	0.7	136	0.8	37	2.0
Island	35	1.4	22	2.7					35	1.4	22	2.7
Jefferson	9	0.1	6	11.8					9	0.1	6	11.8
King	2058	0.3	707	1.6			2	0.5	2058	0.3	709	1.6
Kitsap	193	0.4	44	0.6					193	0.4	44	0.6
Kittitas					17	1.2	9	1.8	17	1.2	9	1.8
Klickitat	10	3.0	1	7.0	2	1.0	1	0.0	12	2.7	2	3.5
Lewis	94	0.3	14	0.0					94	0.3	14	0.0
Lincoln					9	3.2	3	23.0	9	3.2	3	23.0
Mason	71	0.5	28	0.7					71	0.5	28	0.7

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

Table 7 continues on the following page.

COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	JAIL		PR		JAIL		PR		JAIL		PR	
	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received
Okanogan					56	2.0	30	2.3	56	2.0	30	2.3
Pacific	10	0.1	1	16.0					10	0.1	1	16.0
Pend Oreille							2	2.5			2	2.5
Pierce	802	0.7	153	1.6					802	0.7	153	1.6
San Juan	11	2.8	15	0.5					11	2.8	15	0.5
Skagit	111	0.9	46	2.0					111	0.9	46	2.0
Skamania	5	8.6	2	0.0					5	8.6	2	0.0
Snohomish	415	0.6	162	3.3					415	0.6	162	3.3
Spokane			2	0.0	432	1.7	203	2.3	432	1.7	205	2.3
Stevens					20	0.8	9	0.8	20	0.8	9	0.8
Thurston	181	1.0	80	2.2					181	1.0	80	2.2
Wahkiakum	5	0.0	2	0.0					5	0.0	2	0.0
Walla Walla			1	0.0	49	1.6	21	2.8	49	1.6	22	2.6
Whatcom	241	0.4	53	4.4					241	0.4	53	4.4
Whitman					5	1.0	3	1.0	5	1.0	3	1.0
Yakima					257	2.0	77	4.4	257	2.0	77	4.4
TOTAL	5035	0.55	1541	2.10	1455	1.84	548	2.57	6490	0.8	2089	2.2

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

DSHS Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Outcomes: Counties in the WSH catchment area took, on average, 0.55 days to complete a jail-based referral, and 2.1 days to complete a PR referral. Counties in the ESH catchment area took, on average, 1.84 days to complete a jail-based referral, and 2.57 days to complete a PR referral.

Drivers: WSH's catchment area again shows a moderate decrease in jail-based and PR referral processing times. ESH's catchment area increased significantly in the time taken to provide all documents for referrals. PR referrals increased modestly.

Table 8. Describes the number of outpatient restoration orders received and the average days from signature to referral completion by county, hospital, and order type.

Number of Outpatient Competency Restoration Orders Received and Average Number of Days from Order Signature to All Documents Received By County, Hospital, and Order Type 10/1/2021 - 9/30/2022				
COUNTY	Statewide Outpatient Competency Restoration			
	JAIL		PR	
	Court Orders Received	Average Days to All Documents Received	Court Orders Received	Average Days to All Documents Received
Adams				
Asotin				
Benton			1	0.0
Chelan				
Clallam				
Clark			16	1.4
Columbia				
Cowlitz			1	0.0
Douglas				
Ferry				
Franklin				
Garfield				
Grant				
Grays Harbor				
Island				
Jefferson				
King				
Kitsap				
Kittitas				
Klickitat			1	0.0
Lewis				
Lincoln				
Mason				
Okanogan				
Pacific				
Pend Oreille				
Pierce			7	0.1
San Juan				
Skagit			1	0.0
Skamania				
Snohomish				
Spokane	5	20.8	8	2.0
Stevens			1	1.0
Thurston				
Wahkiakum				
Walla Walla				
Whatcom				
Whitman				
Yakima				
TOTAL	5	20.80	36	1.11

Data Note: The average across counties for in-jail and PR court orders is a weighted average and is based on reported averages only.

DSHS Research and Data Analytics, Data Source: BHA - Forensic Data System, Date: 10/24/2022

Outcomes: The Trueblood Phase 1 Outpatient Competency Restoration Programs operated in partnership with the HCA and their contractors, are now active in the three Phase 1 regions consisting of 10 counties. All three programs opened in summer 2020, and now each has more than two years of experience serving clients.

Table 8 above shows clients referred to OCRP directly from jail as well as those referred to OCRP from a community-based personal recognizance status. The data also includes the few referrals received from courts in counties not yet eligible to refer defendants to OCRP.

Drivers: OCRP has been operational in all 10 Phase 1 counties for more than two years now. Due to delays with securing a contractor and the nationwide health care staffing shortage, HCA was unable to implement Phase 2 OCRP services in the King region by the March 31, 2022 Trueblood Phase 2 implementation plan deadline. However, OCRP services began with limited capacity on Oct. 31, 2022, and client capacity will increase as staff is hired and trained.

With any new program there is always a learning curve and lessons that can be successfully applied to improvement. The department, HCA, and our external partners continue to learn and apply lessons to improve current and future programming. Continued outreach and education with the criminal court system and other stakeholders is a critical piece of awareness being worked on to drive use of OCRP in the Phase 1 and 2 regions. Forensic navigators, as officers of the court, inhabit an important role and are in a unique position to encourage the criminal courts to consider less restrictive treatment environments than hospitalization, when appropriate. To that end, please see pages 5-6 for additional information about a new RTF to OCRP least restrictive treatment environment transfer program for clients ready to benefit from the community resources available in outpatient treatment during their second period of restoration, while in turn freeing an inpatient bed substantially earlier for a higher acuity patient.

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 Feb. 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 Feb. 8, 2016 order, DSHS revised the long-term plan and submitted it to the Court on May 6, 2016. The revised plan can be found by visiting [combined long-term plan](#).

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 and addressing staffing challenges, (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.

Building workforce and addressing staffing challenges

During the reporting period, training for evaluators continued and OFMHS has continued to track the impacts of current evaluation capacity on timeliness for competency evaluations and admission into restoration beds. COVID-19's Delta variant in fall 2021, Omicron in winter 2021-2022, and Omicron sub-variants in spring and summer 2022 have continued to result in reduced bed capacity and periodic holds on admission that impact evaluation timeliness.

Competing for staff talent with the private sector in the context of the ongoing pandemic leaves many positions, especially at our treatment facilities, chronically short-staffed. BHA identifies and implements creative solutions within our existing authority and partners with executive leadership, state human resources, labor, and other partners to develop and implement innovative approaches to recruiting and retaining critical staff positions. During spring and summer 2022, DSHS has taken several steps to alleviate staffing challenges. Steps taken included hiring more contractors and travel nurses, adding

hiring recruitment resources to both WSH and ESH, especially to hire nurses, partnering with the Washington State Office of Financial Management to adjust pay ranges for certain positions, expanding our successful forensic evaluator training and recruitment post-doctoral program from three-to-five interns this year, and engaging a successful demand to bargain with labor partners to allow for contract evaluations to take place until vacancies can be filled. Working toward implementing new policies and practices to attract and retain passionate, talented staff remains critical to success, and BHA will continue this critical focus into fall 2022.

Expanding bed capacity

Due to COVID-19 related supply chain disruptions and challenges within the construction industry, no new beds opened during the 2021-2022 reporting period. The following beds are expected to come online during the 2022-2023 reporting period:

1. Two new 29-bed inpatient forensic competency restoration wards at WSH. Projected opening is January 2023 for the first ward and March 2023 for the second ward.
2. The 16-bed inpatient RTF Civil Center for Behavioral Health at Maple Lane. Projected opening is February 2023.
3. The 30-bed remodel of Columbia Cottage at Maple Lane as a facility for NGRI patients from WSH. Projected opening is October 2023.

Decreasing demand for competency services

The Forensic Navigator program launched July 1, 2020 and is connecting class members with an enhanced suite of services as they navigate the competency/restoration process. Outpatient Competency Restoration also launched on July 1, 2020 and is designed to work in concert with the Forensic Navigator program to educate the criminal courts and guide appropriate clients to needed services – especially outpatient restoration – and away from inpatient beds in secure state facilities. In summer and fall 2021, the Forensic Navigator program hired nine new navigators for the program’s expansion into the King region. It also hired a supervisor for the King region and an additional supervisor to jointly oversee the Southwest Washington and Spokane Forensic Navigator groups. The newly hired forensic navigators began onboarding and training with OFMHS in November 2021 and launched Phase 2 services in January 2022. OCRP programs continued planning for Phase 2 King region implementation, contracted with a provider for the King region, and the provider began limited OCRP services, due to staffing constraints, on Oct. 31, 2022.

Every person identified as appropriate and subsequently ordered for restoration treatment in OCRP can access community resources and build or rebuild the community supports necessary to enable success post-restoration. Diverting people from inpatient hospital or RTF beds allows people with higher acuity to access those beds.

Efforts to reduce demand for competency services include several innovative programs listed as follows: Forensic Projects for Assistance in Transition from Homelessness, mobile crisis response, and Forensic Housing and Recovery through Peer Services teams. FPATH identifies and builds relationships with persons at highest risk for involvement in the criminal court, homelessness, and forensic mental health systems in an effort to provide services and prevent involvement in these systems. Mobile crisis response provides timely interventions in the field to prevent individuals from being arrested and incarcerated and to instead quickly connect them with the services they need. FHARPS identifies persons who are homeless or unstably housed who also have behavioral health needs, and connects them with supports for housing and peers who have similar lived experience. Each of these programs is working to meet client's needs and to enable them to move forward in a positive manner before a behavioral health crisis necessitates criminal court involvement or involuntary hospitalization. FPATH, MCR, and FHARPS programs have implemented their initial suite of services for Phase 2 in the King region. Services became active during Q1 2022. In addition to supporting ongoing service in the Phase 1 and 2 regions, programs continue to plan for implementation activities for Phase 3 of the Settlement Agreement that begins July 1, 2023.

On July 5, 2022, OFMHS implemented a new process to allow suitable RTF clients on their second period of restoration to transition to outpatient restoration. Significant collaboration among Forensic Navigators, OCRP, the RTFs, and the criminal court system have allowed this new effort to reduce demand and increase throughput of higher acuity beds to come to fruition. The new process allows clients to access significant community resources to aid in their restoration and provides more bed turnover at RTFs allowing patients with greater acuity admission to those beds. The initial clients identified and referred for participation have undergone an assessment for OCRP suitability conducted by a Forensic Navigator. In the initial cases, the clients were found competent, and therefore were not referred to OCRP; however, their RTF bed was freed for another higher acuity client.

NEXT STEPS

As we pass the midway point of implementing Phase 2 of the Contempt Settlement Agreement, OFMHS continues to work with its partners at the Health Care Authority, the Criminal Justice Training Commission, the criminal court systems around the state, and others to implement and administer new programs seeking to better serve our clients. 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 the success of these programs.

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 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 and 2020-2021 annual reporting periods saw implementation of several new programs that have improved OFMHS' and its partners abilities to deliver forensic mental health services to our constituencies. Phase 2 final implementation plan activities were funded by the Legislature beginning with the new budget biennium on July 1, 2021 allowing expansion of Phase 1 programs into the King region. The 2021-2022 reporting period saw implementation of most Phase 2 programming in the King region. Due to contracting and staffing delay's, Phase 2 OCRP began serving clients in a limited capacity on Oct. 31, 2022, just outside of this report's time period. The upcoming 2022-2023 reporting period covers the remaining implementation period for Phase 2 and the beginning of the Settlement Agreement's Phase 3 activities in July 2023.

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 addressing staffing challenges, and (3) decreasing demand for competency services.

SUMMARY

The department will continue to work on meeting compliance standards set out by the Court and Legislature. OFMHS continues to work on (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. While systemwide impacts due to the multi-year COVID-19 pandemic and state of emergency have started to lessen, our system struggles with a nationwide labor shortage and acute impacts locally to critical patient-centered positions. The department is focused

on creative, out-of-the-box solutions to attract and retain the talented people necessary to continue implementing systemic improvements.