

## **Report to the Legislature**

# **Timeliness of Services Related to Competency to Proceed or Stand Trial 2015 Annual Report**

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

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## BACKGROUND

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

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

This 2015 annual report provides data on the timeliness of competence to stand trial services during the reporting period from 10/1/2014 through 9/30/2015. DSHS is making every effort to provide competency services within the seven-day standard as soon as is possible.

In April 2015, the U.S. District Court found that waiting times for competency to stand trial services violate the substantive due process rights of criminal defendants, and established 7 days as the maximum justifiable period of incarceration absent an individualized finding of good cause. DSHS has appealed the 7-day evaluation deadline to the 9th Circuit Court of Appeals. However, that appeal only applies to the timeline for the initial evaluation of competency to stand trial. DSHS is not appealing the 7-day deadline for competency restoration services.

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

- Hired 11 new forensic evaluators; and
- Is preparing to open 90 additional forensic beds

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) with 120 beds at WSH designated as pre-trial evaluation, restoration and forensic-to-civil conversion beds. The remaining forensic beds house individuals who were found not guilty by reason of insanity.

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

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

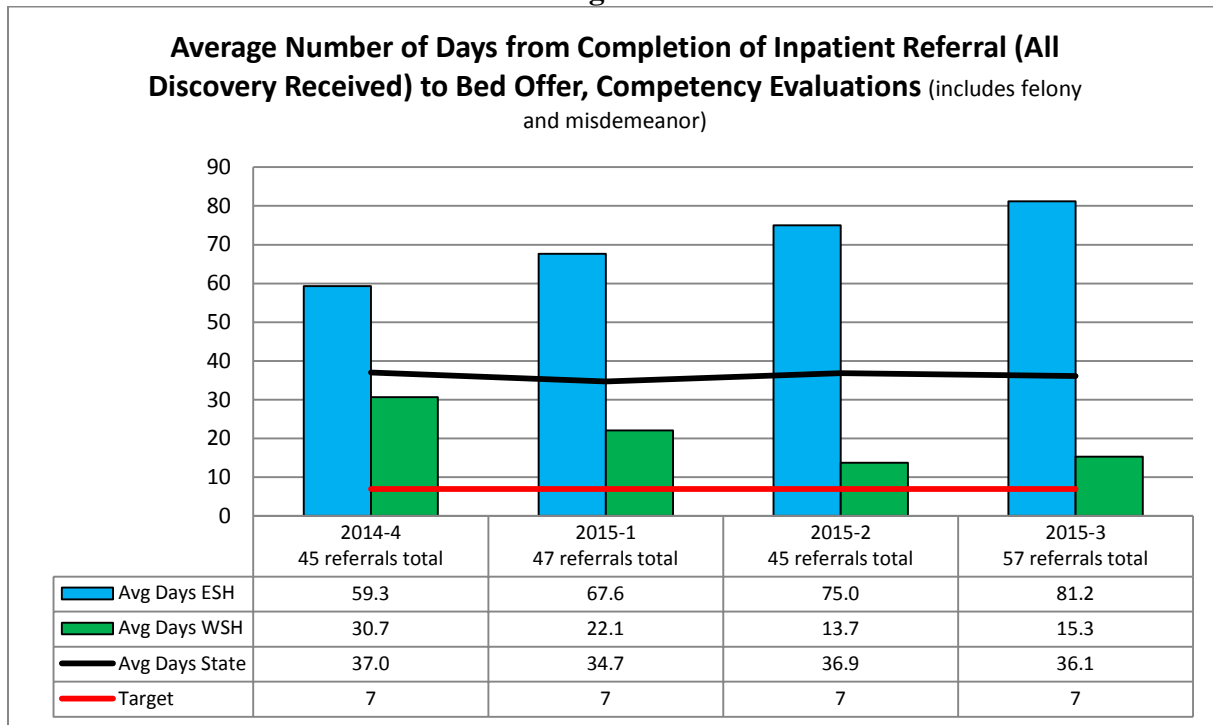
## COMPETENCY EVALUATION AND RESTORATION DATA

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

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

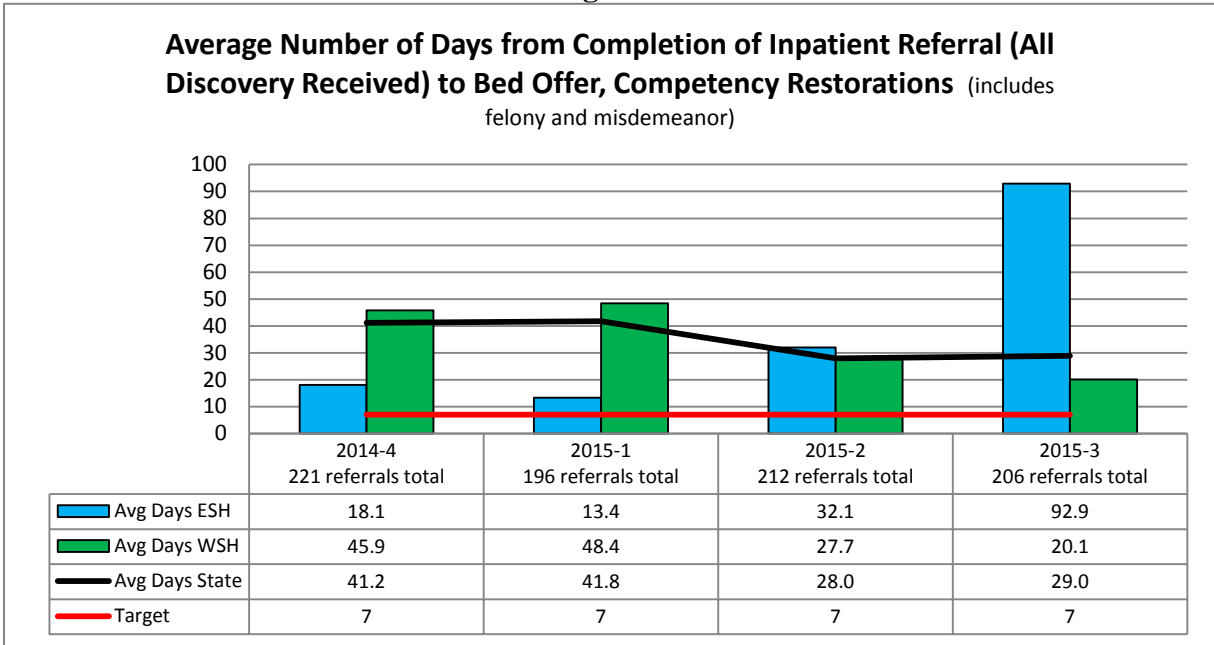
Figure 1 below shows results for competency evaluation cases. Figure 2 shows results for competency restoration cases.

**Figure 1**



*Data Source: Hospital Database pulls dated November 2015 (Trusevich and Bouvier)*

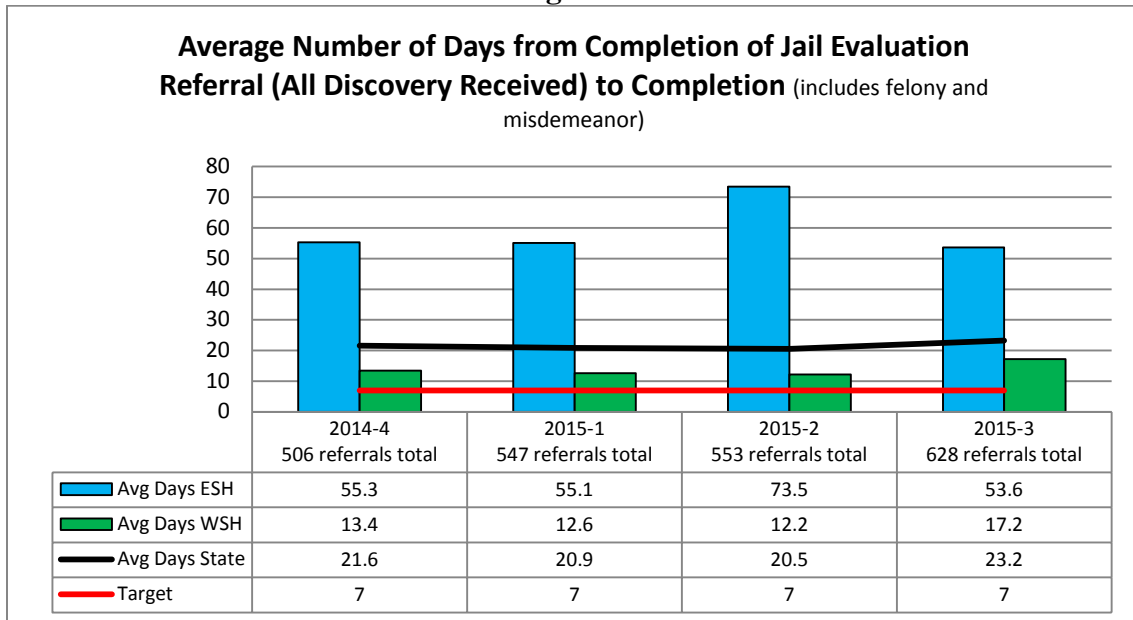
**Figure 2**



Data Source: Hospital Database pulls dated November 2015 (Trusevich and Bouvier)

RCW 10.77.068(1)(a)(iii)(A), as amended by SSB 5889, 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.

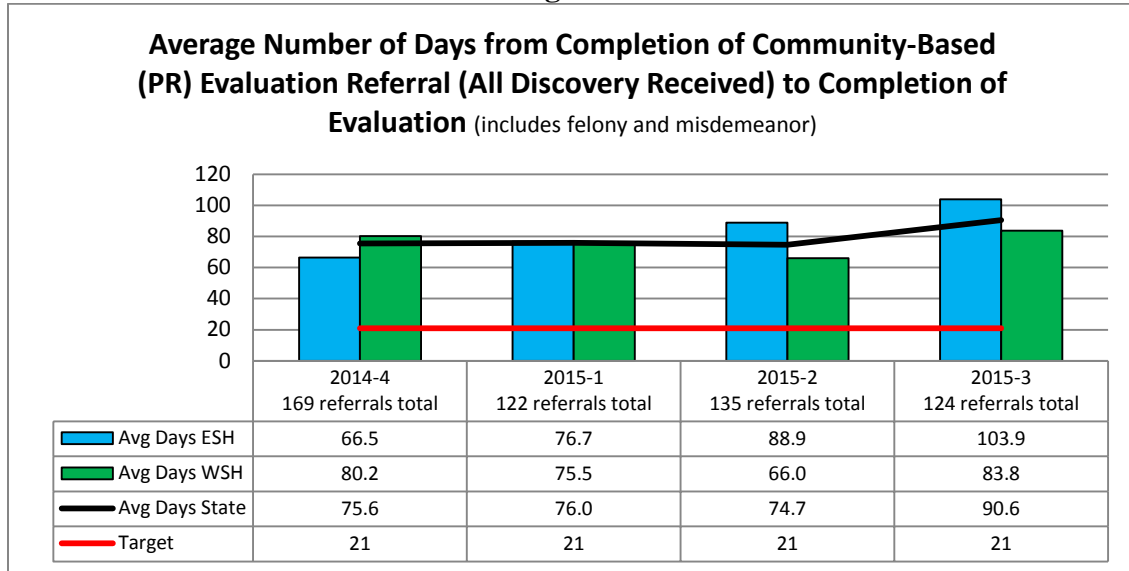
**Figure 3**



Data Source: Hospital Database pulls dated November 2015 (Trusevich and Bouvier)

RCW 10.77.068(1)(a)(iv), as amended by SSB 5889, 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**



*Data Source: Hospital Database pulls dated November 2015 (Trusevich and Bouvier)*

## DISCUSSION OF RESULTS

### Timeliness of hospital admissions

Figures 1 and 2 above show wait times related to hospital admission for evaluation (Figure 1) and restoration (Figure 2). During the reporting year, WSH decreased wait times for both inpatient evaluation and restoration by over 50%. In contrast, ESH showed increased wait times for both, particularly for the final quarter.

While some of the WSH improvements may be the result of system improvements and efficiencies, at least some of the results are attributable to data cleaning efforts. For instance, in studying our data, we discovered that some of the cases showing particularly lengthy wait times were actually cases that had been dismissed from court, or cases where the patient had been released on personal recognizance, but the hospital had not been notified of these outcomes and continued to show the patient as awaiting a hospital bed. As part of DSHS’s efforts to improve forensic data integrity, we have made a substantial effort to identify these types of cases and clean up the data accordingly.

ESH saw a significant spike in their number of referrals for jail-based evaluations in 2015 Quarter 3, which put more pressure on their wait list for hospital beds. Statewide, DSHS continues to experience increases of approximately eight percent per year in the overall number of court orders for competency services.

With funding provided by the Legislature in response to the Trueblood case, DSHS hired 11 of 13 new forensic evaluators allocated under the 2015-17 biennial budget, and expect the timelines for forensic evaluations to shorten as a result. Once we eliminate the backlog of evaluation referrals at each hospital, we will be able to begin processing incoming referrals upon receipt of all necessary materials from the referring courts.

The legislature also provided funding in the 2015-17 biennial budget to DSHS to open 90 new forensic beds. DSHS continues to expand capacity for competency restoration treatment by adding new forensic beds as follows:

- As of April 2016, 15 new forensic beds are currently available at WSH;
- 27 new forensic beds at Eastern State Hospital are operational as of May 2016;
- 12 beds in Yakima are currently operational with an additional 12 expected to be operational by July 1, 2016; and
- 30 beds at the Maple Lane School are operational currently.

Moving patients into these beds is contingent on identifying sufficient patients at WSH who qualify for the new beds, and on bringing on sufficient staffing at ESH. Once this bed capacity is fully operational the wait times for admission to state hospitals is expected to decrease.

#### Timely completion of jail-based evaluations

Figure 3 above shows a slight overall increase in the timeliness of jail-based evaluations during the reporting year. However, DSHS anticipates these numbers to decline as a result of substantial efforts that were made during this reporting period. These efforts include recruiting for thirteen new Forensic Evaluator positions allocated in the 2015-17 biennial budget. Eight new evaluators have been hired at WSH. ESH has hired three new evaluator positions. The majority of newly hired evaluators have been trained and are operational in the field and in the hospitals. Both hospitals continue to recruit to fill their remaining positions and maintain their current staffing levels.

To help with recruitment and retention, DSHS formally established a new job class called “Forensic Evaluator” with a pay range that is 15% higher than the Psychologist 4 job class formerly held by our Forensic Evaluators. Psychologists who had been performing competency evaluations as at least 51% of their work duties were transferred into this new job class, and realized the 15% pay increase. In addition, extra duty pay became available to DSHS forensic evaluators who have surpassed average productivity standards.

In the 2014 6492 Annual Report, DSHS described a strategy to begin “out stationing” evaluators in parts of the state where we have high referral rates. For example, DSHS found success in establishing the North Regional Office in downtown Seattle, which houses seven evaluators and serves King County. We have expanded outstations to include:

- An evaluator stationed in King County’s South Correctional Entity (SCORE) facility;
- An evaluator stationed in the Snohomish County Jail;
- And we are in the process of establishing an office in Vancouver to handle the Clark County competency evaluations

Evaluators continue to travel to Yakima, Kitsap, Thurston and Lewis counties on a weekly basis.

DSHS began recruiting to fill the positions in the newly established Office of Forensic Mental Health Services. The first focus of the new office is to improve timeliness of jail-based evaluations. Included in the new capacity are administrative assistant positions at each hospital to better support forensic evaluators and decrease the amount of time the evaluators need to spend on administrative tasks, thereby enabling the evaluators to focus more on the business of completing evaluations; and a new supervisor position to help oversee the work of the forensic evaluators and ensure timely, high quality evaluations.

In an effort to create strategic system improvements, evaluators from across the state were invited to participate in a Lean event in which they identified common, systemic, delays to timely forensic services and propose recommendations for solutions. Evaluators also met with several Counties to develop shared strategies for improving communication, scheduling and other issues that have historically delayed completion of competency evaluations. While meeting with various counties and conducting the Lean event required us to take evaluators away from their usual work of completing evaluations, these efforts have produced a strong set of practical recommendations, many of which are now being implemented.

While results for the reporting year did not show consistent improvement in the timeliness of jail-based evaluations, we expect to reap the benefits of these efforts and realize measurable improvement in timeliness of evaluations over the coming year.

#### Additional activities to improve timeliness of forensic services

In partnership with the Governor's office, DSHS convened a group of partners to plan the effective implementation of SB 5177, and its provision allowing prosecutors to dismiss misdemeanor cases where there is a question of competency and refer the individual for mental health services. This planning group included prosecutors, defenders, judges, Tribes, mental health providers, RSNs and others. DSHS continues to actively work on coordinating and encouraging implementation of SB 5177.

As part of the Office of Forensic Mental Health Services, DSHS has hired a Liaison/Diversion Specialist who is now convening meetings with Counties to build partnerships aimed towards diverting persons with mental illness from involvement in the criminal justice system when possible. Additionally, this position is working actively to identify promising practices within individual counties and help expand those practices to other locations. As more persons are diverted from arrest, or are engaged in promising practices such as mental health courts, DSHS hopes to see a downturn in the volume of forensic mental health cases requiring services. Moreover, through meeting with staff at the Counties (including prosecutors, defenders, judges, jail staff, mental health staff and others), DSHS aims to identify and promote strategies to resolve local challenges to timely forensic mental health services. To date, the newly hired Liaison/Diversion Specialist has already had very encouraging meetings with counties and jails including King, Yakima, Lewis, Spokane, Pierce, Benton, Thurston and Snohomish. Meetings with counties will continue as DSHS continues to invest in building collaborative partnerships aimed at 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  
By County, Hospital, and Order Type  
10/1/2014 - 9/30/2015**

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					4	3.75	2	12.00	4	3.75	2	12.00
ASOTIN					1	0.00	3	7.33	1	0.00	3	7.33
BENTON					7	4.71	18	4.39	7	4.71	18	4.39
CHELAN					7	8.43	15	3.33	7	8.43	15	3.33
CLALLAM	2	6.00	6	1.33					2	6.00	6	1.33
CLARK	11	8.80	73	2.00					11	8.80	73	2.00
COLUMBIA							1	13.00				
COWLITZ	1	3.00	13	1.00					1	3.00	13	1.00
DOUGLAS												0
FERRY					1	2.00			1	2.00		0
FRANKLIN					3	15.67	5	13.60	3	15.67	5	13.60
GARFIELD												
GRANT					6	7.17	11	1.91	6	7.17	11	1.91
GRAYS HARBOR	1	51.00	18	1.61					1	51.00	18	1.61
ISLAND												0
JEFFERSON												
KING	36	2.03	221	1.10					36	2.03	221	1.10
KITSAP	5	7.80	36	1.25					5	7.80	36	1.25
KITITAS					2	6.50	3	8.00			3	8.00
KLICKITAT					1	18.00	2	15.50	1	18.00		
LEWIS	6	2.83	17	3.76					6	2.83	17	3.76
LINCOLN												
MASON												0
OKANOGAN					1	2.00	2	23.00	1	2.00	2	23.00
PACIFIC												0
PEND OREILLE					2	1.00			2	1.00		0
PIERCE	46	2.13	205	2.01					46	2.13	205	2.01
SAN JUAN												
SKAGIT	4	0.75	19	5.63					4	0.75	19	5.63
SKAMANIA												0
SNOHOMISH	6	5.33	48	1.19					6	5.33	48	1.19
SPOKANE					28	11.82	50	3.62	28	11.82	50	3.62
STEVENS					1	3.00			1	3.00		0
THURSTON	9	2.00	46	1.74					9	2.00	46	1.74
WAHIAKUM												
WALLA WALLA					2	6.50	8	6.00			8	6.00
WHATCOM	9	3.78	18	5.50					9	3.78	18	5.50
WHITMAN					1	0.00			1	0.00		
YAKIMA					10	11.30	18	1.94	10	11.30	18	1.94
<b>TOTAL</b>	<b>136</b>	<b>3.51</b>	<b>720</b>	<b>1.81</b>	<b>77</b>	<b>9.16</b>	<b>138</b>	<b>4.65</b>	<b>213</b>	<b>5.37</b>	<b>858</b>	<b>2.22</b>

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  
By County, Hospital, and Order Type  
Target: 7 Days  
10/1/2014 - 9/30/2015**

COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS	
	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer	# Beds Offered	Average Days to Bed Offer
ADAMS					2	58.00	2	10.00	2	58.00	2	10.00
ASOTIN					1	32.00	3	24.33	1	32.00	3	24.33
BENTON					6	65.83	10	20.20	6	65.83	10	20.20
CHELAN					2	18.00	10	51.80	2	18.00	10	51.80
CLALLAM	2	24.50	5	27.80					2	24.50	5	27.80
CLARK	11	26.73	66	38.00					11	26.73	66	38.00
COLUMBIA												
COWLITZ	2	26.00	9	32.89					2	26.00	9	32.89
DOUGLAS												
FERRY					1	63.00	1	11.00	1	63.00	1	11.00
FRANKLIN					2	86.50	3	36.00	2	86.50	3	36.00
GARFIELD												
GRANT					7	47.00	11	35.36	7	47.00	11	35.36
GRAYS HARBOR	2	25.00	18	49.61					2	25.00	18	49.61
ISLAND												
JEFFERSON												
KING	35	24.26	219	33.76					35	24.26	219	33.76
KITSAP	6	24.33	34	29.18					6	24.33	34	29.18
KITITTAS					1	28.00	3	8.33			3	8.33
KLUCKITAT					1	29.00	2	42.50	1	29.00		
LEWIS	6	22.33	19	37.42					6	22.33	19	37.42
LINCOLN												
MASON												
OKANOGAN					1	63.00	1	20.00	1	63.00	1	20.00
PACIFIC												
PEND OREILLE					1	47.00			1	47.00		
PIERCE	46	16.17	204	37.65					46	16.17	204	37.65
SAN JUAN												
SKAGIT	4	37.50	16	42.44					4	37.50	16	42.44
SKAMANIA												
SNOHOMISH	4	24.25	45	38.16					4	24.25	45	38.16
SPOKANE					27	85.52	43	42.32	27	85.52	43	42.32
STEVENS												
THURSTON	8	21.50	46	36.35					8	21.50	46	36.35
WAHIAKUM												
WALLA WALLA					2	87.00	6	29.17			6	29.17
WHATCOM	10	19.50	16	39.31					10	19.50	16	39.31
WHITMAN												
YAKIMA					5	51.00	14	25.64	5	51.00	14	25.64
<b>TOTAL</b>	<b>136</b>	<b>21.56</b>	<b>697</b>	<b>36.31</b>	<b>59</b>	<b>68.63</b>	<b>109</b>	<b>34.91</b>	<b>192</b>	<b>35.31</b>	<b>804</b>	<b>36.11</b>

Table 3 depicts the number of days counties took to complete a referral for outpatient 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  
By County, Hospital, and Order Type  
10/1/2014 - 9/30/2015**

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					2	2.00	3	4.00	2	2.00	3	4.00
ASOTIN					7	9.57	1	4.00	7	9.57	1	4.00
BENTON					69	7.51	78	5.22	69	7.51	78	5.22
CHELAN					42	6.57	33	6.76	42	6.57	33	6.76
CLALLAM	21	2.95	15	9.13					21	2.95	15	9.13
CLARK	225	2.30	61	2.08					225	2.30	61	2.08
COLUMBIA					2	5.50	1	6.00			1	6.00
COWLITZ	19	2.32	8	3.13					19	2.32	8	3.13
DOUGLAS												
FERRY												
FRANKLIN					47	7.17	14	4.00	47	7.17	14	4.00
GARFIELD												
GRANT					19	12.79	24	6.42	19	12.79	24	6.42
GRAYS HARBOR	44	4.70	14	1.86					44	4.70	14	1.86
ISLAND	17	2.88	8	15.50					17	2.88	8	15.50
JEFFERSON	15	9.27	2	0.00					15	9.27	2	0.00
KING	1057	1.42	298	3.98					1057	1.42	298	3.98
KITSAP	92	1.27	23	5.65					92	1.27	23	5.65
KITTITAS					7	3.71	10	4.40	7	3.71	10	4.40
KLICKITAT					3	19.00	1	9.00	3	19.00	1	9.00
LEWIS	38	3.39	23	6.87					38	3.39	23	6.87
LINCOLN												
MASON	37	3.68	28	9.46					37	3.68	28	9.46
OKANOGAN					18	6.33	9	7.33	18	6.33	9	7.33
PACIFIC	8	3.75	0						8	3.75	0	
PEND OREILLE					3	5.67	2	15.50	3	5.67	2	15.50
PIERCE	226	2.15	129	5.39					226	2.15	129	5.39
SAN JUAN												
SKAGIT	22	0.91	17	9.35					22	0.91	17	9.35
SKAMANIA	2	1.50	0						2	1.50	0	
SNOHOMISH	126	1.21	43	7.05					126	1.21	43	7.05
SPOKANE					177	6.32	125	7.10	177	6.32	125	7.10
STEVENS					6	3.17	3	3.00	6	3.17	3	3.00
THURSTON	107	1.54	51	2.88					107	1.54	51	2.88
WAHIAKUM	1	0.00	0						1	0.00	0	
WALLA WALLA					5	16.40	5	4.00	5	16.40	5	4.00
WHATCOM	48	3.13	15	5.67					48	3.13	15	5.67
WHITMAN												
YAKIMA	68	11.69	49	11.12	68	11.69	49	11.12	136	11.69	98	11.12
<b>TOTAL</b>	<b>2173</b>	<b>2.16</b>	<b>784</b>	<b>5.24</b>	<b>475</b>	<b>7.76</b>	<b>358</b>	<b>6.91</b>	<b>2646</b>	<b>3.17</b>	<b>1141</b>	<b>5.76</b>

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  
By County, Hospital, and Order Type  
Target: 7 Days for Jail, 21 Days for PR  
10/1/2014 - 9/30/2015**

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					3	64.33	2	115.00	3	64.33	2	115.00
ASOTIN					6	54.33	2	84.50	6	54.33		
BENTON					70	54.21	57	83.91	70	54.21	57	83.91
CHELAN					36	53.36	28	78.29	36	53.36	28	78.29
CLALLAM	20	13.15	5	96.60					20	13.15	5	96.60
CLARK	212	16.08	40	70.70					212	16.08	40	70.70
COLUMBIA					2	32.00						
COWLITZ	16	21.38	8	79.88					16	21.38	8	79.88
DOUGLAS					1	71.00	1	70.00	1	71.00		
FERRY												0
FRANKLIN					42	57.43	12	86.83	42	57.43	12	86.83
GARFIELD												
GRANT					16	49.13	14	78.00	16	49.13	14	78.00
GRAYS HARBOR	37	18.57	6	92.33					37	18.57	6	92.33
ISLAND	20	25.05	4	31.50					20	25.05		
JEFFERSON	16	13.69	1	87.00					16	13.69		
KING	905	14.87	116	87.77					905	14.87	116	87.77
KITSAP	81	14.89	12	93.25					81	14.89	12	93.25
KITITAS					11	62.64	5	61.60	11	62.64	5	61.60
KLICKITAT					3	49.67	1	70.00	3	49.67		
LEWIS	34	17.71	10	55.30					34	17.71	10	55.30
LINCOLN												
MASON	37	14.43	24	75.38					37	14.43	24	75.38
OKANOGAN					14	55.14	8	69.75	14	55.14	8	69.75
PACIFIC	8	19.38	1	81.00					8	19.38		
PEND OREILLE					4	52.25	2	64.00			2	64.00
PIERCE	204	16.00	66	69.64					204	16.00	66	69.64
SAN JUAN												
SKAGIT	18	23.06	9	112.00					18	23.06	9	112.00
SKAMANIA	2	20.50	0						2	20.50		
SNOHOMISH	117	12.99	28	61.86					117	12.99	28	61.86
SPOKANE					157	54.13	74	69.61	157	54.13	74	69.61
STEVENS					5	62.60						
THURSTON	103	15.85	20	95.40					103	15.85	20	95.40
WAHKIAKUM												
WALLA WALLA					6	65.50	3	60.33	6	65.50	3	60.33
WHATCOM	40	3.68	4	68.50					40	3.68	4	68.50
WHITMAN							1	60.00				
YAKIMA					67	47.52	32	83.19	67	47.52	32	83.19
<b>TOTAL</b>	<b>1870</b>	<b>15.18</b>	<b>354</b>	<b>79.04</b>	<b>443</b>	<b>53.67</b>	<b>242</b>	<b>77.26</b>	<b>2302</b>	<b>22.41</b>	<b>585</b>	<b>78.65</b>