

REPORT TO THE LEGISLATURE

**Forensic Admissions and Evaluations – Performance Targets 2016
Second Quarter (April 1, 2016-June 30, 2016)**

Substitute Senate Bill 6492, Section 2 (Chapter 256, Laws of 2012)
As amended by Substitute Senate Bill 5889, Section 1 (Chapter 5, Laws of 2015)
RCW 10.77.068(3)

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Washington State Department of Social and Health Services

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EXECUTIVE SUMMARY

On May 1, 2012, Substitute Senate Bill 6492 added a section to chapter 10.77 RCW that established performance targets for the “timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient restoration services related to competency to proceed or stand trial for adult criminal defendants.” These targets were codified under RCW 10.77.068 and phased in over six months to one year.

After full implementation of each performance target, the bill required the Department of Social and Health Services (DSHS) to report to the executive and the legislature following any quarter in which it does not meet the performance target. This reporting must address (1) the extent of the deviation, and (2) any corrective action being taken to improve performance.

On July 24, 2015, Substitute Senate Bill 5889 amended RCW 10.77.68. The bill retained the performance targets for competency services but added to these a set of “maximum time limits” phased in over one year. After full implementation of the maximum time limits, SSB 5889 required DSHS to report to the executive and the legislature following any quarter in which it does not meet each performance target or maximum time limit.

As a result of these two bills, current performance targets and maximum time limits under RCW 10.77.068(1)(a) are as follows:

- (i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days;
- (ii) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days;
- (iii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days, plus an additional seven-day extension if needed for clinical reasons to complete the evaluation at the determination of the department;
- (iv) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, a performance target of twenty-one days or less.

Section (1)(b) of RCW 10.77.068 establishes the beginning and end points for applying the performance targets and maximum time limits set forth above. Section (1)(c) identifies six

conditions that shall serve as defenses to an allegation that the department has exceeded the maximum time limits.

As mandated by RCW 10.77.068(3), the following quarterly report explains the extent to which the hospitals deviated from performance targets in Quarter 2 of 2016 (April 1, 2016-June 30, 2016), and describes the hospitals' plans to meet these performance targets. Compliance with the maximum time limits will be addressed in future quarterly reports following their full implementation in July 2016.

COMPETENCY EVALUATION AND RESTORATION DATA

RCW 10.77.068(1)(a)(i) establishes a performance target for a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial in seven days or less, and a maximum time limit of fourteen days. Figure 1 below shows results for in-patient competency evaluation cases, and Figure 2 shows results for post-dismissal referrals.

Figure 1

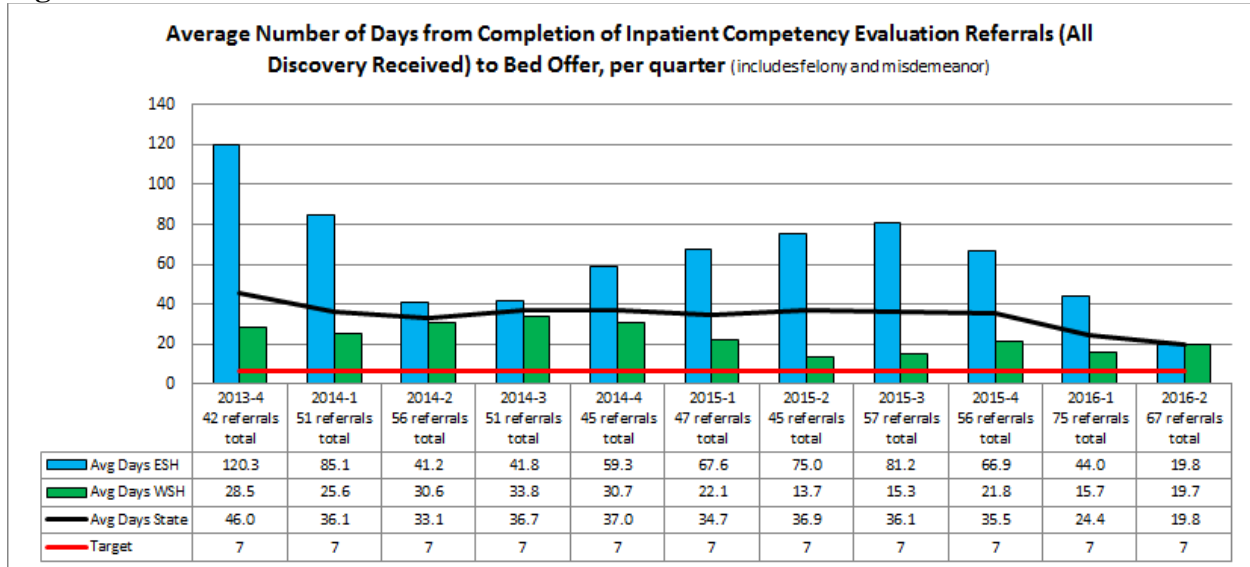
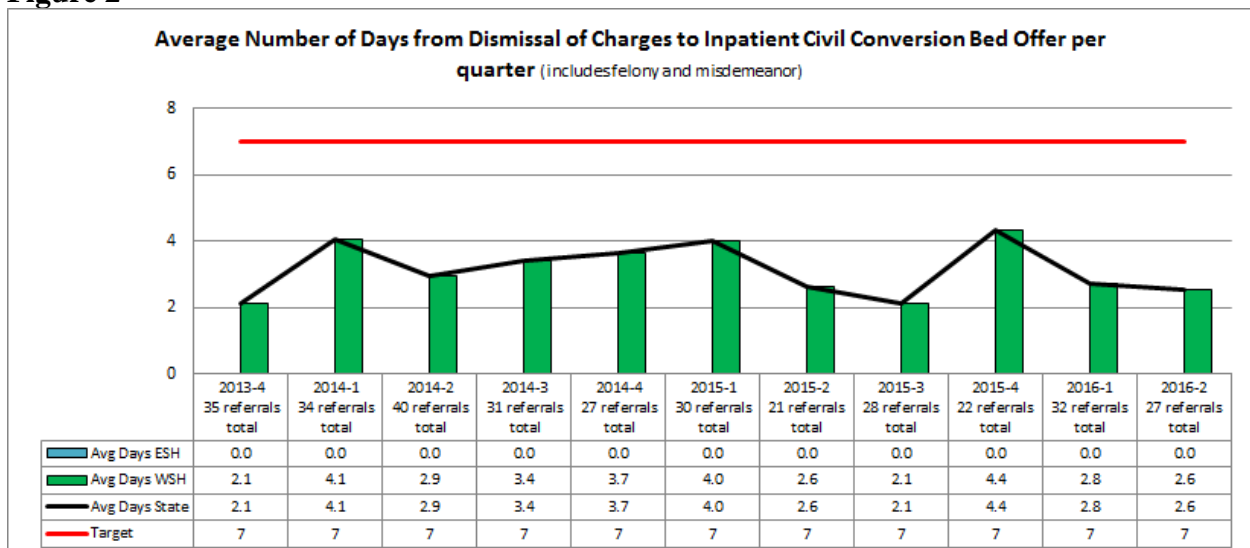
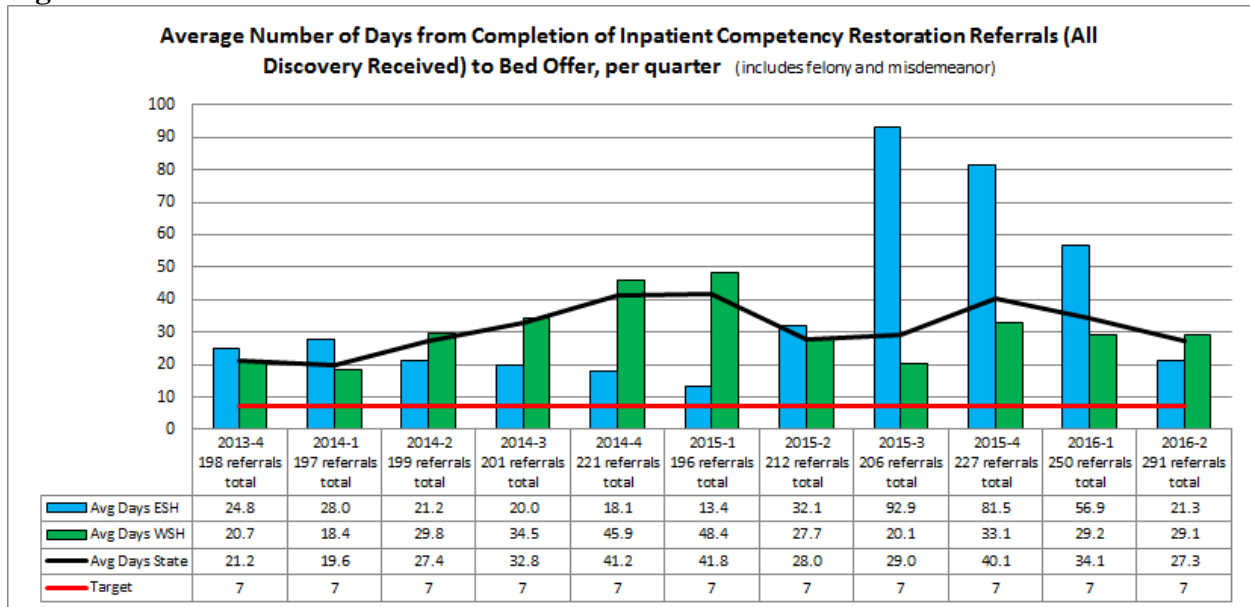


Figure 2



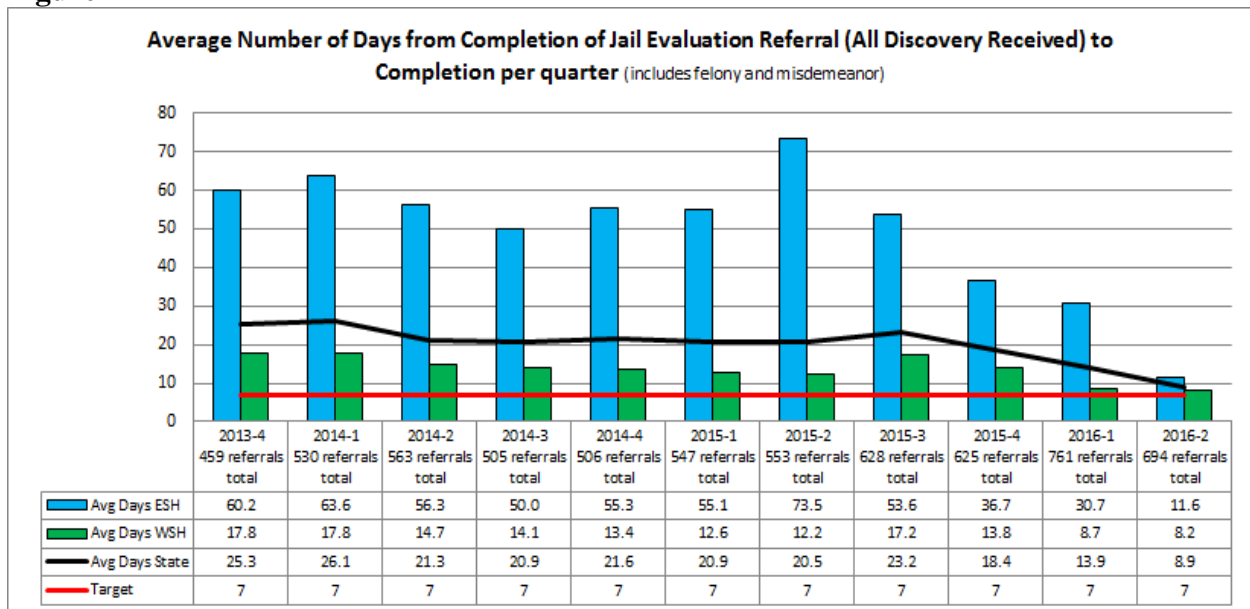
RCW 10.77.068(1)(a)(ii) establishes a performance target for a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency in seven days or less, and a maximum time limit of fourteen days. Figure 3 below shows results for competency restoration cases.

Figure 3



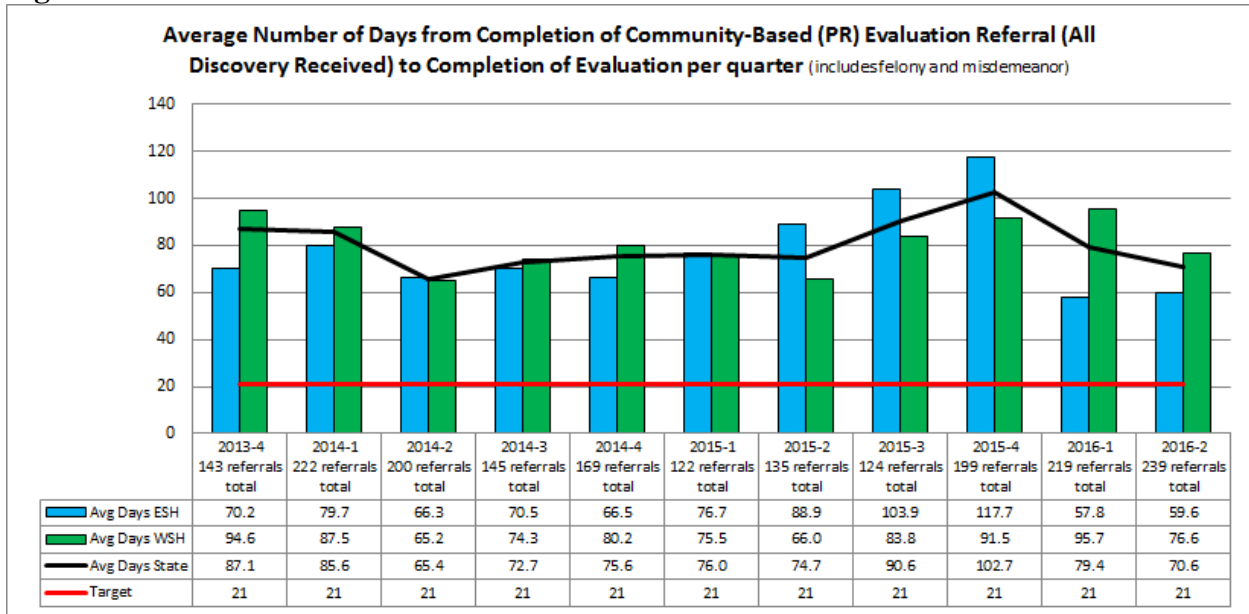
RCW 10.77.068(1)(a)(iii) sets a performance target that competency evaluations for a defendant who is in jail will be completed and distributed within 7 days or less, and a maximum time limit of 14 days, plus an additional 7-day extension if needed for clinical reasons to complete the evaluation at the determination of DSHS. Figure 4 shows results for this reporting period.

Figure 4



RCW 10.77.068(1)(a)(iv) sets a performance target 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 5 shows results for this reporting period.

Figure 5



DISCUSSION OF RESULTS

The data displayed above reflects continued progress in the past quarter for improving the timeliness of forensic services. With alternate sites for competency restoration established and on-going efforts to address timelines (see below for updates), the trend lines continue toward meeting established targets. Work to fully meet the performance targets and maximum time limits will continue as DSHS continues to pursue plans on how to address any delays and deficiencies to meet the noted time frames.

Following the April 2, 2015, decision by the U.S. District Court for the Western District of Washington in the *Trueblood v. DSHS* litigation, DSHS provided detailed public updates on progress in a monthly report to the Court-Appointed Monitor, Dr. Danna Mauch. These reports are available on the DSHS website at the following address:

<https://www.dshs.wa.gov/bha/division-behavioral-health-and-recovery/trueblood-et-al-v-washington-state-dshs>

In addition to these monthly reports, DSHS submitted a Long-Term Plan to the Court in July, 2015 which outlines DSHS's plans for coming into compliance with the timelines established in the *Trueblood* decision. On February 8, 2016, the Court issued an order modifying the original April 2, 2015 order, providing a new timeline requiring full compliance as of May 27, 2016. Pursuant to the Court's February 8, 2016 order, DSHS revised the long term plan and submitted this plan to the Court on May 6, 2016.

Efforts to improve the timeliness of forensic services and reach compliance with the *Trueblood* decision over the last quarter include the following:

A. Workforce

- A Workforce Development Administrator was hired in April, 2016, a Quality Assurance Manager was hired in April, 2016, and a Director of the Office of Forensic Mental Health Services was hired in May, 2016.
- New announcements have been posted for physicians, psychiatrists, psychologists, LPNs, PSNs, RNs 2/3, MHTs and PSAs. Some of these positions will be receiving assignment pay. DSHS nurses – both LPNs and RNs – will be among the highest paid in Washington State.
- Union negotiations continue for other classifications used at WSH and ESH including physicians, psychiatrists and psychiatric social workers. The recruitment team believes that this will have a positive impact on filling vacancies.
- A major advertising campaign for nurses (LPNs and RNs) has been designed and will be published in mid-July. The campaign will begin in the quarterly Journal of the Washington State Nurses Commission that reaches more than 100,000 nurses statewide. A nationwide advertising campaign aimed at transitioning military in the medical fields was launched in late July 2016.

- The Office of Financial Management and DSHS successfully negotiated Memorandums of Understanding (MOUs) with SEIU and WFSE to increase the compensation for RNs, MHTs, PSAs, LPNs, and PSNs. The MOU with SEIU also provides a substantial recruitment incentive of up to \$10,000 for new RNs.
- Additional MOUs continue to be negotiated with the Coalition and WFSE regarding the use of ARNPs and increased compensation for physicians and Psychiatric Social Workers.
- On June 23rd, 2016 the Public Employment Relations Commission (PERC) upheld the Executive Director's decision denying severance and ruled that Psychiatric Social Workers will continue to be represented by WFSE thus lifting the status quo and opening the door for bargaining.

B. Alternate Facilities

- As of June 30, The Yakima Competency Restoration Program has admitted a total of 18 patients since opening. Of those discharged, 9 were opined competent; 1 opined not competent and re-admitted for a second period of restoration services; 1 opined not likely restorable; and 1 was transferred to receive restoration services at the state hospital. Work is completed on the stairway and there is no longer any restriction precluding patients from being on the second floor.
- As of June 30, the Maple Lane Competency Restoration Program had admitted a total of 39 patients since opening. 17 patients had discharged. Of those discharged, 12 were opined competent, 2 opined not likely restorable; and 3 were transferred to receive restoration services at the state hospital. The temporary restraining order on using the second floor of the facility has been lifted.
- The biggest obstacle to filling the beds in these facilities continues to be resolving barriers with patients' court orders. Measures taken to overcome these obstacles include the following:
 - As reported previously, a new court order format was developed by the Administrative Office of the Courts and released in early 2016. DSHS continues efforts to educate partners and stakeholders on the new form and the new alternate sites – Maple Lane and Yakima.
 - Attorney tours have been hosted at both Maple Lane (6/22/16) and Yakima (in April 2016).
 - A fact sheet has been developed and distributed to courts, prosecutors, defense council, the Washington Association of Prosecuting Attorneys (WAPA) and the Washington Association of Sheriffs and Police Chiefs (WASPC).

- Multiple meetings with counties have been held (Clark, King, Chelan, and Spokane).
- DSHS's AAGs have discussed the new court orders at show cause hearings and bring copies to share, and educate counsel on cases in which DSHS is trying to transfer patients into alternate facilities through a court order revision. Email and voice messages were sent to the Pierce County Office of Public Defense (6/15/16) and presiding judge in Superior Court (6/29/16) to encourage the use of correct court orders.

C. Technology

- DSHS augmented the mobile technology hardware in place, bringing the number of equipped evaluators to 24. The previously ordered twelve units have been received and are being configured for deployment in early July 2016. This use of the hardware is a significant step in reducing evaluation timelines.
- Training and deployment of digital voice recorders (DVRs) was completed for Forensic Evaluators at ESH who are currently interested in digital dictation. Likewise, the transcription pool has been trained and successfully completed the end-to-end process, beginning with dictation by the evaluator through transcription and return of the final report to the evaluator. This enhancement is expected to save time and increase the number of evaluations completed. Analyzing pre- and post-mobile solutions for evaluators should highlight productivity gains.
- A needs assessment and use case for Dragon dictation software for use by forensic evaluators was completed.
- DSHS continues to work towards a final transmittal solution allowing for dictation files to be submitted through a secure remote access tunnel. This requires a security design review and approval from Washington Technology (WaTech).
- The planning for a DSHS/Forensic System needs assessment for telehealth (synchronous video) capabilities began in June 2016.

D. Eastern State Hospital

- For inpatient evaluations, the ESH average has fallen dramatically – from 44 to 13.8 days in June (12.5 in May). The combined hospital average has fallen to 23.1 (17.8 in May) from the average of 33 days.
- For restoration, the ESH average has fallen dramatically – from 30.4 to 9.9 days in June. The combined hospital average has fallen to 23.6 days compared with a 32 day average.

The department's plans for continuing to improve the timeliness and quality of forensic services fall into four broad categories. These are:

1. Increase evaluation capacity and improve quality, in terms of more timely access to defendants to conduct evaluations;
2. Explore possible expansion of bed capacity for competency restoration treatment, inside and outside the state hospitals;
3. Develop more robust and reliable data systems to better forecast demand for services and monitor program performance; and
4. Create opportunities to safely divert people with mental illness from arrest, prosecution or incarceration.

Further corrective actions to improve the timeliness of Forensic Services are detailed in the department's monthly reports and Long-Term Plan referenced above.