

REPORT TO THE LEGISLATURE

**Forensic Admissions & Evaluations
2021 Annual Report
October 1, 2020 – September 30, 2021**

RCW 10.77.068(4)

December 31, 2021

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BACKGROUND

RCW 10.77.068(4) was enacted to improve the timeliness of competency evaluation and restoration services:

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 2021 annual report provides data on the timeliness of competence to stand trial services during the reporting period from Oct. 1, 2020 through Sept. 30, 2021. 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 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 appealed the 7-day evaluation deadline to the 9th Circuit Court of Appeals for in-custody evaluations only. The results of this appeal from the 9th Circuit Court of Appeals was for the in-custody evaluations to be completed within 14 days of court order signature.

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

- Acquired the services of a full-time professional recruiter from the DSHS Headquarters Human Resource Division Talent Acquisition group.
- Filled leadership and management positions for the BHA Office of Forensic Mental Health Services.
- Worked with the Maple Lane project team to identify, recruit, assess and hire 24 residential rehabilitation counselors, 13 security guards and three maintenance technicians. Maple Lane was staffed within five weeks and opened on schedule in April 2016.
- Identified and assessed over 60 applicants for forensic evaluator and evaluator supervisor positions. Thirteen new forensic evaluators were hired.

- Finalized negotiations with the Center for Medicare and Medicaid Services to enter a 13-month Systems Improvement Agreement to allow Western State Hospital the time and guidance needed to fix systemic operating problems and to put more focus on patient treatment and overall safety.
- Implemented the WSH emergency hire project.
- Opened 54 competency restoration beds in the state's first two competency restoration residential treatment facilities by July 2016.
- Opened 15 new forensic beds at WSH in April 2016 and 27 forensic beds at Eastern State Hospital in May 2016.

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

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 were almost at capacity with individuals 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. These additional beds were opened to help manage the state's waitlist for inpatient services. In August 2019, a third residential treatment facility, Fort Steilacoom Competency Restoration Program was opened 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.

The Legislature continued to appropriate funding toward SSB 6492 as amended, the original April 2015 Trueblood decision as amended, and the newly approved Settlement Agreement's final implementation plan. Several fiscal year 2020 funded programs began activities during the annual Oct. 1, 2018-Sept. 30, 2019 reporting period. These activities were initially reported in the 2019 annual report and are updated

below to include activities from the Oct. 1, 2019-Sept. 30, 2020 reporting period.

- OFMHS hired its allotment of 13 forensic evaluators in FY 20 and five in FY 21.
- Assembled full technical assistance to jails and workforce development teams to provide technical assistance and training to jails and to support workforce development activities. In addition to providing training and technical assistance, they produced the first annual report on workforce development activities under the Trueblood Settlement Agreement.
- Forensic navigator administrator designed and implemented the Forensic Navigator program on July 1, 2020. A team of nine forensic navigators was hired in winter and spring 2020 and deployed to our 10 Phase 1 counties to begin serving clients on July 1. Navigators continue to foster strong relationships with our court and outpatient restoration partners and are making key differences in client-centered problem solving and connecting clients to needed resources.
- In partnership with the department, the Washington State Health Care Authority prepared the Outpatient Competency Restoration Program for implementation on July 1, 2020. Two of the three regions launched programs on July 1, 2020, and the Southwest region launched on Sept. 1, 2020.

In addition to the activities updated above, the following initiatives were undertaken for the Oct. 1, 2019-Sept. 30, 2020 reporting period.

- Ninety-two additional forensic beds were brought online in four wards at ESH and WSH. ESH opened the first 25-beds on ward 1N3 on June 1 and the second 25-beds on ward 3N3 on August 3. WSH's construction schedule experienced substantial impacts due to COVID-19 shortages in work crews and challenges in the supply chain. The project was never put on hold and was as a high priority capital project throughout the pandemic response. WSH's 40-beds on wards E3 and E4 opened in early 2021.
- E-faxing initiative. Many courts maintain requirements that forensic reports and other related motions be transmitted to the court clerk via fax. Outside of normal business hours or when forensic evaluators work from remote locations, they do not always have access to traditional fax machines. E-faxing utilizes secure servers to transmit documents from anywhere you can connect the network to a receiving fax machine. For minimal investment, the project increases the number of forensic reports submitted on time, improving workload efficiency and decreasing fine payments for late cases.
- OFMHS began telehealth evaluations with a small pilot project in 2018. For the first two years of video evaluations, it proved challenging to engage jails and other entities in adopting remote

evaluations; however, with the COVID-19 pandemic, OFMHS' was prepared to quickly shift to and utilize workforce development staff to assist jails and others in adopting the necessary technology to conduct video evaluations. From April to September 2020, utilization of video evaluations increased nearly five-fold.

During the Oct. 1, 2020-Sept. 30, 2021 reporting period, the Legislature continued to appropriate funding toward SSB 6492 as amended, the original April 2015 Trueblood decision as amended, and the newly approved Settlement Agreement's final implementation plan for Phase 2. Phase 2 of the Settlement Agreement took effect on July 2021 and runs through June 30, 2023. Items listed below are current department initiatives to implement SSB 6492 and the Trueblood Settlement Agreement.

- Forensic navigator administrator is hiring nine forensic navigators to expand the program into King County for Phase 2. Two supervisors and one support staff are also being hired to support the Forensic Navigator program's growth. Services are expected to begin in January 2022.
- In partnership with the department, HCA is preparing to launch OCRP King County in March 2022.
- Project is underway to add two new 29-bed forensic competency restoration wards at WSH set to open in fall 2022 and winter 2023.
- Continued focus on remote competency services. For the 12 months ending in September 2021, utilization of telehealth evaluations remains substantial at more than 170 evaluations per month on average. Telehealth systems are utilized in more than 25 tribal, county, and local jails statewide, and very few remote evaluation attempts are rejected by clients or their attorneys.

COMPETENCY EVALUATION AND RESTORATION DATA

RCW 10.77.068(1)(a)(i)(A) and (ii)(A), as amended by SSB 5889, established 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.

RCW 10.77.068(1)(a)(iii)(A), as amended by SSB 5889, set a performance expectation that competency evaluations for in-custody defendants will be completed and distributed within seven days or less.

RCW 10.77.068(1)(a)(iv), as amended by SSB 5889, set a performance expectation that competency evaluations for defendants, who are released from custody and make a reasonable effort to cooperate with the evaluation will be completed and distributed within 21-days or less.

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.

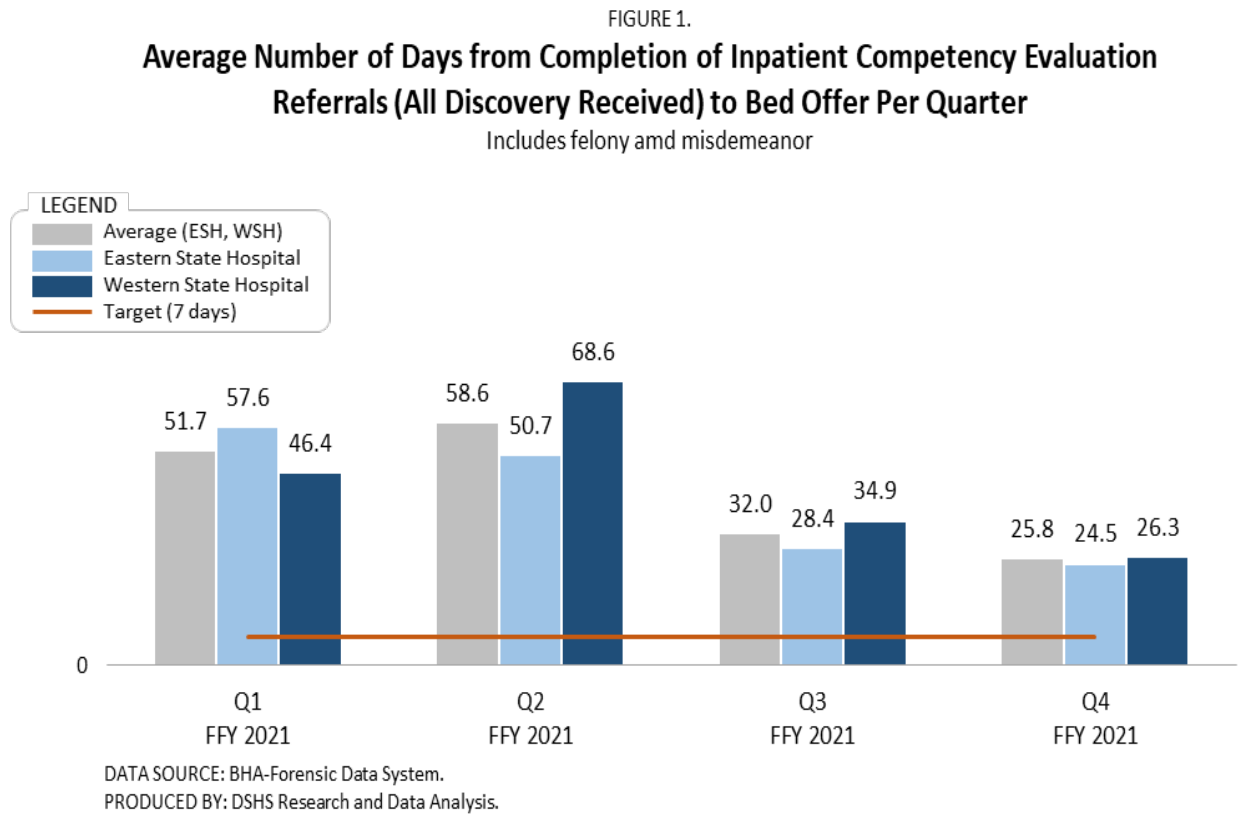
Additional detailed data and information about timely competency services is available in monthly reports published by the Department of Social and Health Services in compliance with requirements established in the April 2015 Trueblood court order. These reports are available at:

<https://www.dshs.wa.gov/bha/trueblood-et-al-v-washington-state-dshs> .

Please note that the data presented in this report differs slightly than the data published in the Trueblood reports. State statute begins the count for timely service at the date of receipt of discovery, while the Trueblood court order begins the count at the date the court order for services is signed. On the following pages, Figures 1-4 present the statewide forensic system data.

SECTION 1: STATEWIDE FORENSIC SYSTEM DATA

Figure 1: Average number of days from referral to bed offer for competency evaluation

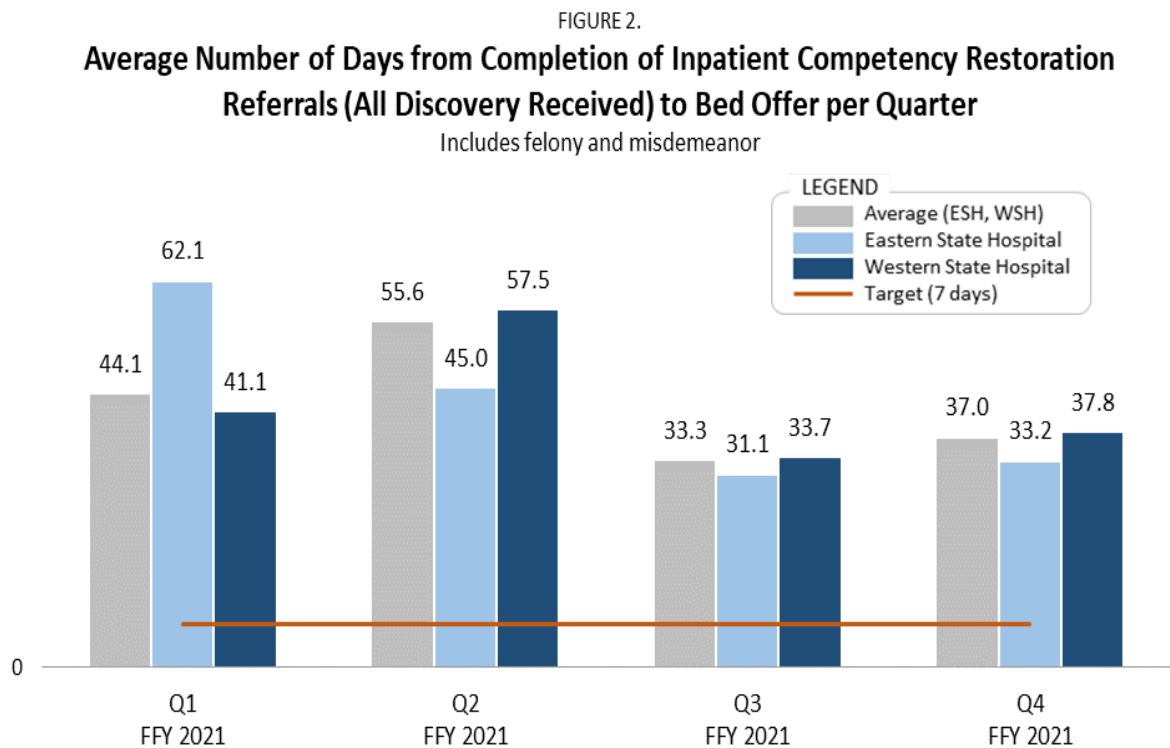


Data Note:

1) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 1.** Represents wait times related to hospital admission for inpatient competency evaluations (including defendants released on Personal Recognizance).
- **Outcomes:** During the reporting period, WSH and ESH initially showed increased wait times through Q2 2021 before both hospitals wait times improved significantly in Q3 and Q4 2021.
- **Drivers:** During Q1 and Q2 2021, COVID-19 caused significant impacts in the state hospital system as criminal courts slowly began to re-open and active outbreaks slowed and even paused hospital admissions at times throughout this period. By Q3, COVID-19 outbreaks had slowed and vaccines had become available to patients and staff. Unfortunately, as we entered Q4, the Delta variant was once again impacting admissions and has continued to do so.

Figure 2: Average number of days from referral to bed offer for competency restoration



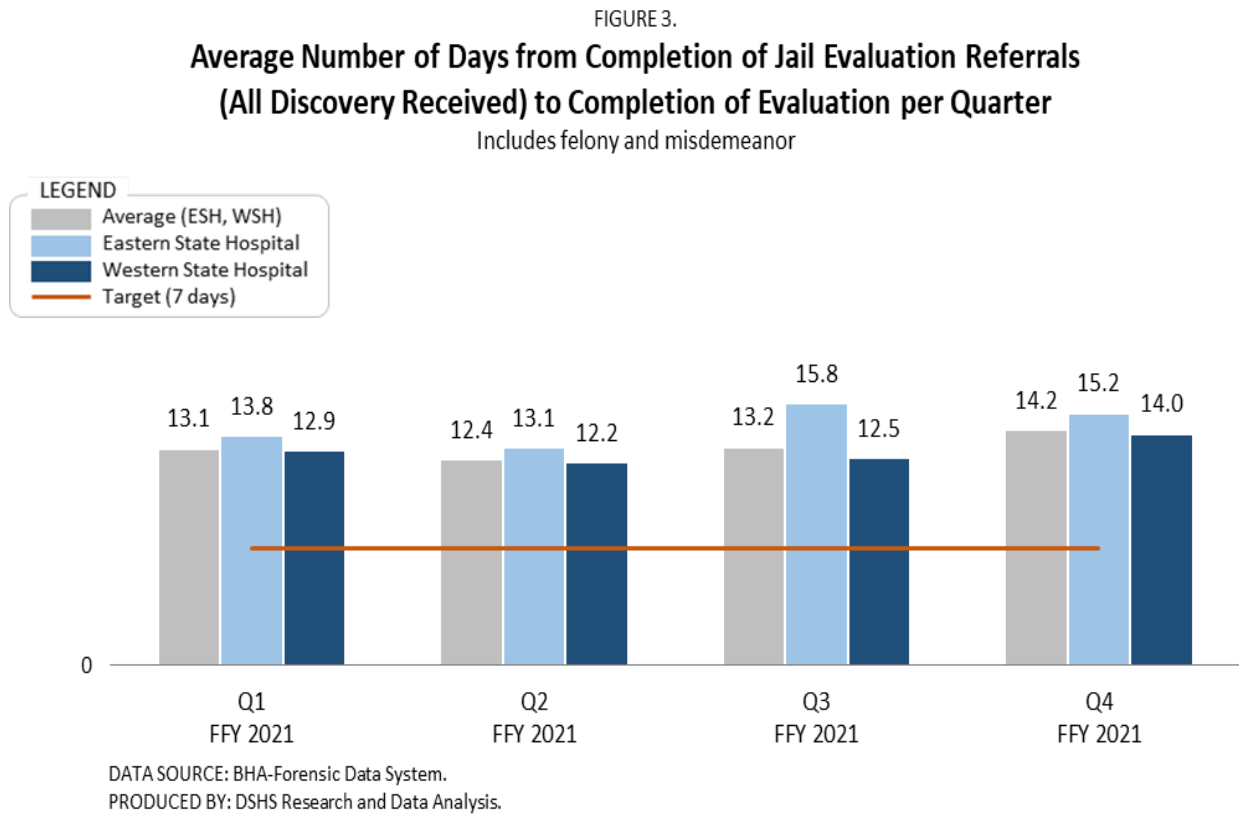
DATA SOURCE: BHA-Forensic Data System.
 PRODUCED BY: DSHS Research and Data Analysis.

Data Note:

1) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 2.** Presents wait times related to hospital admission for inpatient competency restoration treatment (including PR’s).
- **Outcomes:** During the reporting period, WSH saw a moderate decrease in average wait times while ESH saw its wait times decrease by nearly 50-percent.
- **Drivers:** The factors driving the numbers here are much like those from Figure 1, above. COVID-19 related shutdowns were most acutely in effect during Q1 and Q2 2021 as the criminal court system began to slowly re-open. Likewise, high degrees of disruption within the state hospital system itself due to pandemic protocols in place and active infections among staff and clients decreased admissions and treatment throughput. During Q3, the influence of these factors lessened and wait times improved. Unfortunately, as we entered Q4, the Delta variant was once again impacting admissions and has continued to do so.

Figure 3: Average number of days from referral of in jail evaluation to completion

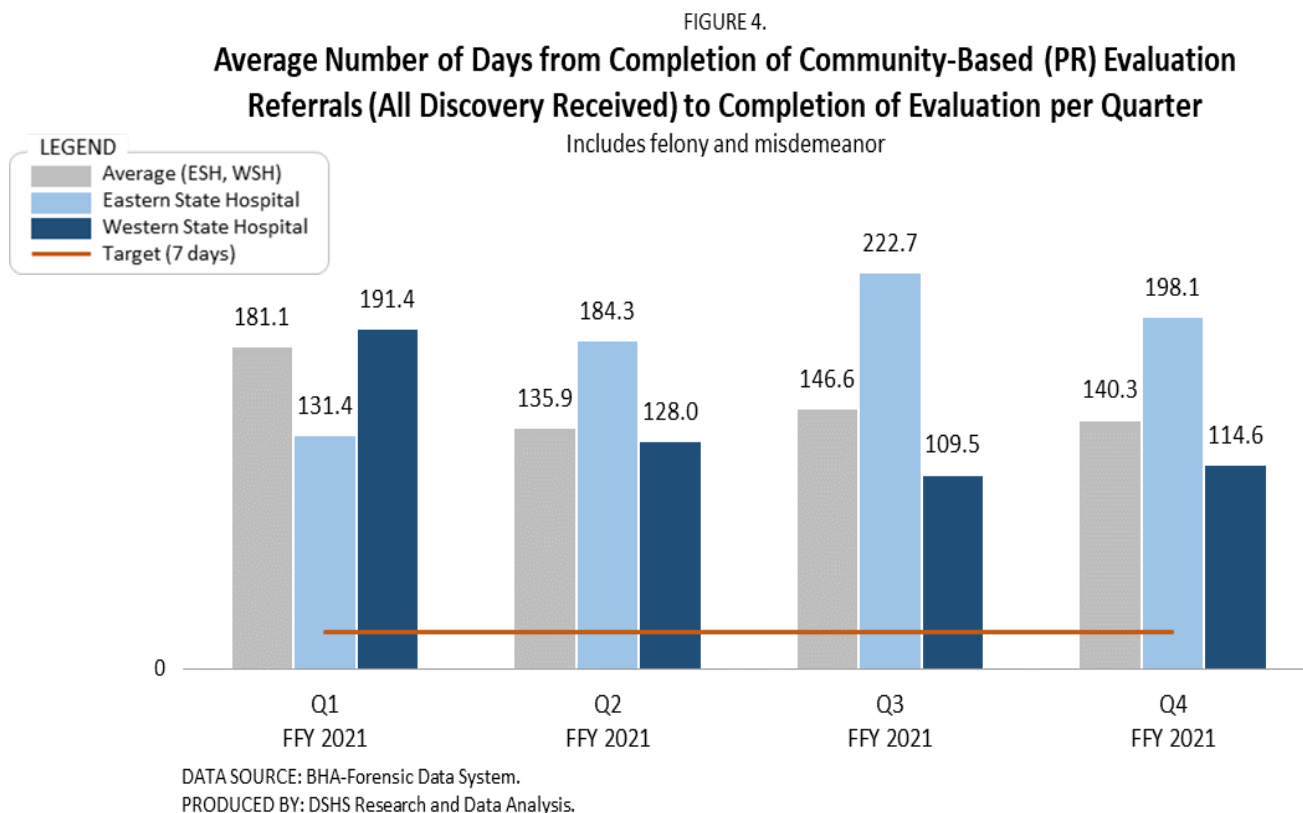


Data Note:

1) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 3.** Displays the number of days to complete jail (in-custody) evaluation referrals.
- **Outcomes:** Statewide average days to completion initially decreased during the first half of the federal fiscal year before completing the year higher.
- **Drivers:** During the first half of federal fiscal year 2021, evaluation referrals began to pick up again after dropping substantially during COVID-19 lockdowns affecting the criminal court system. In the most recent quarters, pent up demand from case back logs have frequently led to record numbers of jail-based evaluation referrals. This combined with the impacts of COVID-19 positive cases in jail, especially in Q4 caused a corresponding rise in average days to completion.

Figure 4: Average number of days from referral of community-based evaluation to completion



Data Note:

1) Data in this graph is a snapshot that was provided after the completion of the quarter. Due to the dynamic data system, data in this graph may vary slightly from data pulled subsequently from the system due to updated data.

- **Figure 4.** These are the completion times related to community-based PR competency evaluation referrals.
- **Outcomes:** 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 as the criminal court system began to re-open more broadly and as the state hospital system experienced fewer COVID-19 outbreaks.

SECTION 2: COUNTY FORENSIC SYSTEM DATA

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 6 on the following pages provide this information.

Table 1. 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 Completion of Referral (All Discovery Received)**

By County, Hospital, and Order Type
10/1/2020 - 9/30/2021

COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS	
	Number of Referrals Received	Average Days to Completed Referral	Number of Referrals Received	Average Days to Completed Referral	Number of Referrals Received	Average Days to Completed Referral	Number of Referrals Received	Average Days to Completed Referral	Number of Referrals Received	Average Days to Completed Referral	Number of Referrals Received	Average Days to Completed Referral
Adams			1	0.0	1	0.0	4	0.8	1	0.0	5	0.6
Asotin					2	0.5	5	0.6	2	0.5	5	0.6
Benton			9	0.2	34	0.4	39	0.5	34	0.4	48	0.4
Chelan					9	2.0	13	0.7	9	2.0	13	0.7
Clallam	3	0.0	33	2.5					3	0.0	33	2.5
Clark	8	0.6	144	1.6					8	0.6	144	1.6
Columbia												
Cowlitz	2	0.0	83	0.4					2	0.0	83	0.4
Douglas							10	2.1			10	2.1
Ferry					4	0.0	3	1.0	4	0.0	3	1.0
Franklin			4	2.0	5	0.0	26	0.4	5	0.0	30	0.6
Garfield												
Grant			8	0.8	15	0.6	22	0.5	15	0.6	30	0.6
Grays Harbor	1	0.0	47	1.1					1	0.0	47	1.1
Island			12	2.8							12	2.8
Jefferson			2	0.0							2	0.0
King	91	0.4	603	0.5					91	0.4	603	0.5
Kitsap	6	3.3	76	1.1					6	3.3	76	1.1
Kittitas					9	2.1	5	8.8	9	2.1	5	8.8
Klickitat	1	0.0			4	0.8	1	9.0	5	0.6	1	9.0
Lewis	6	0.7	49	0.2					6	0.7	49	0.2
Lincoln					2	3.0	1	1.0	2	3.0	1	1.0
Mason	5	0.0	16	0.5					5	0.0	16	0.5
Okanogan			2	0.5	9	0.4	46	1.4	9	0.4	48	1.3
Pacific	4	0.0	7	0.0					4	0.0	7	0.0
Pend Oreille					4	0.5			4	0.5		
Pierce	14	0.5	390	3.0					14	0.5	390	3.0
San Juan	1	0.0							1	0.0		
Skagit	10	1.1	57	1.1					10	1.1	57	1.1
Skamania			3	0.3							3	0.3
Snohomish	26	1.4	169	1.1					26	1.4	169	1.1
Spokane			7	2.3	49	1.0	93	2.3	49	1.0	100	2.3
Stevens					8	0.4	8	0.6	8	0.4	8	0.6
Thurston	12	0.1	77	1.9					12	0.1	77	1.9
Wahkiakum			3	3.0							3	3.0
Walla Walla					2	0.0	12	1.3	2	0.0	12	1.3
Whatcom	25	0.4	115	0.5			1	1.0	25	0.4	116	0.5
Whitman							4	13.0			4	13.0
Yakima			14	0.2	32	0.3	45	1.3	32	0.3	59	1.0
TOTAL	215	0.62	1931	1.31	189	0.71	338	1.59	404	0.7	2269	1.4

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

- **Outcomes:** During this reporting period, counties in the WSH catchment area took 0.62 and 1.31 days (for evaluation referrals and restoration referrals, respectively) to get completed referral packets to WSH. Counties in the ESH catchment area took 0.71 and 1.59 days respectively. While these numbers have fluctuated over the past several reporting cycles, the overall trend is one of substantial improvement.
- **Drivers:** This improvement is attributed to the processing and referral teams on the east and west side and the OFMHS Liaison and Admissions Coordinator combined with hospital admissions staff working with counties to streamline the referral process and to quickly correct any emerging issues.

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

**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

10/1/2020 - 9/30/2021

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	18.0	1	45.0	4	23.5	1	45.0	5	22.4
Asotin					2	43.0	2	17.5	2	43.0	2	17.5
Benton			5	31.2	14	29.9	25	25.8	14	29.9	30	26.7
Chelan					8	26.8	7	49.3	8	26.8	7	49.3
Clallam	3	18.0	30	30.6					3	18.0	30	30.6
Clark	4	32.3	114	38.7					4	32.3	114	38.7
Columbia												
Cowlitz	2	3.5	25	71.9					2	3.5	25	71.9
Douglas							10	22.6			10	22.6
Ferry					4	11.0	4	5.0	4	11.0	4	5.0
Franklin			2	45.0	7	74.9	20	47.9	7	74.9	22	47.6
Garfield												
Grant			6	90.0	8	30.0	16	27.8	8	30.0	22	44.7
Grays Harbor	2	41.5	37	43.1					2	41.5	37	43.1
Island			8	21.4							8	21.4
Jefferson			1	48.0							1	48.0
King	60	46.8	404	32.1					60	46.8	404	32.1
Kitsap	1	19.0	58	38.2					1	19.0	58	38.2
Kittitas					5	74.2	5	16.8	5	74.2	5	16.8
Klickitat							1	45.0			1	45.0
Lewis	3	32.7	38	37.1					3	32.7	38	37.1
Lincoln					1	10.0			1	10.0		
Mason	2	46.5	12	86.8					2	46.5	12	86.8
Okanogan			2	26.5	4	57.0	44	26.0	4	57.0	46	26.0
Pacific	1	24.0	6	53.2					1	24.0	6	53.2
Pend Oreille												
Pierce	12	45.4	317	36.1					12	45.4	317	36.1
San Juan	1	28.0							1	28.0		
Skagit	6	47.5	47	49.6					6	47.5	47	49.6
Skamania			1	41.0							1	41.0
Snohomish	20	38.5	100	80.7					20	38.5	100	80.7
Spokane			7	32.4	26	35.8	60	29.1	26	35.8	67	29.4
Stevens					3	55.7	6	29.8	3	55.7	6	29.8
Thurston	9	29.8	30	41.6					9	29.8	30	41.6
Wahkiakum			3	9.3							3	9.3
Walla Walla					2	44.5	12	35.8	2	44.5	12	35.8
Whatcom	10	47.8	88	34.9			1	0.0	10	47.8	89	34.5
Whitman							4	22.5			4	22.5
Yakima			14	21.6	20	42.6	37	29.8	20	42.6	51	27.6
TOTAL	136	41.83	1356	40.26	105	40.18	258	29.39	241	41.1	1614	38.5

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

- **Outcomes:** For this period, counties in the WSH catchment area had wait times of 41.83 days for evaluation beds and 40.26 days for restoration beds. Counties in the ESH catchment area had wait times of 40.18 days for evaluation beds and 29.39 days for restoration beds.
- **Drivers:** Both WSH and ESH experienced declines in average days to bed offer for inpatient evaluations and inpatient restoration referrals. At times during the pandemic, referrals for inpatient services have dropped considerably allowing forensic evaluators to better position OFMHS for future success by, for example, eliminating WSH's backlog of Forensic Risk Assessments and implementing a plan to ensure a new backlog does not develop. Management of FRAs will ensure additional resources are available in mission-critical areas such as Trueblood cases.

Table 3. 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 Completion of Referral (All Discovery Received)**

By County, Hospital, and Order Type

10/1/2020 - 9/30/2021

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					6	1.7	7	10.3	6	1.7	7	10.3
Asotin					7	1.4			7	1.4		
Benton					156	1.8	49	1.5	156	1.8	49	1.5
Chelan					60	1.9	34	1.9	60	1.9	34	1.9
Clallam	57	0.7	29	1.8					57	0.7	29	1.8
Clark	273	0.6	77	1.9					273	0.6	77	1.9
Columbia					2	4.0	1	1.0	2	4.0	1	1.0
Cowlitz	181	0.5	73	0.5					181	0.5	73	0.5
Douglas					15	1.3	8	1.4	15	1.3	8	1.4
Ferry					9	3.3	3	1.0	9	3.3	3	1.0
Franklin					70	0.9	29	1.0	70	0.9	29	1.0
Garfield												
Grant					50	0.9	19	2.0	50	0.9	19	2.0
Grays Harbor	102	1.1	29	2.0					102	1.1	29	2.0
Island	30	1.6	22	11.9					30	1.6	22	11.9
Jefferson	3	0.3	5	0.6					3	0.3	5	0.6
King	1494	0.4	530	1.6					1494	0.4	530	1.6
Kitsap	182	0.2	73	1.1					182	0.2	73	1.1
Kittitas					9	1.0	6	8.7	9	1.0	6	8.7
Klickitat	8	1.6	9	1.7			3	5.0	8	1.6	12	2.5
Lewis	81	0.7	15	1.8					81	0.7	15	1.8
Lincoln					8	0.3	8	5.9	8	0.3	8	5.9
Mason	36	0.4	25	6.2					36	0.4	25	6.2

Table 3 continues on the following page.

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
Okanogan					63	1.8	15	0.8	63	1.8	15	0.8
Pacific	9	0.7	3	0.0					9	0.7	3	0.0
Pend Oreille					6	0.2	9	0.8	6	0.2	9	0.8
Pierce	642	0.9	144	3.7					642	0.9	144	3.7
San Juan	1	2.0	9	0.7					1	2.0	9	0.7
Skagit	78	1.7	30	2.4					78	1.7	30	2.4
Skamania	4	0.0	3	0.3					4	0.0	3	0.3
Snohomish	291	0.7	148	5.4					291	0.7	148	5.4
Spokane	1	2.0			308	1.4	158	1.4	309	1.4	158	1.4
Stevens					23	0.8	11	1.1	23	0.8	11	1.1
Thurston	164	1.3	69	2.0					164	1.3	69	2.0
Wahkiakum	3	0.0	3	1.0					3	0.0	3	1.0
Walla Walla	2	1.0			23	2.0	2	1.5	25	1.9	2	1.5
Whatcom	160	0.9	51	0.3					160	0.9	51	0.3
Whitman					7	0.6	4	2.5	7	0.6	4	2.5
Yakima					179	1.4	59	6.3	179	1.4	59	6.3
TOTAL	3802	0.63	1347	2.42	1001	1.46	425	2.45	4803	0.8	1772	2.4

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

- Outcomes:** Counties in the WSH catchment area took, on average, 0.63 days to complete a jail-based referral, and 2.42 days to complete a PR referral. Counties in the ESH catchment area took, on average, 1.46 days to complete a jail-based referral, and 2.45 days to complete a PR referral.
- Drivers:** WSH shows a moderate decrease in jail-based referral processing times. ESH continued its improving trends for processing PR cases as average time to process PR referrals decreased substantially compared to the 2019-2020 reporting period. Resources are often limited in terms of prioritizing PR cases as they are not Trueblood class members. The substantially longer referral processing times are, in part, indicative of prioritizing limited resources toward class members.

Table 4. Describes the delay between receiving a complete referral for outpatient evaluation and the date the evaluation was completed. 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).

**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

10/1/2020 - 9/30/2021

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					4	12.5	7	246.3	4	12.5	7	246.3
Asotin					9	14.3			9	14.3		
Benton					138	14.0	35	212.9	138	14.0	35	212.9
Chelan					47	13.9	17	103.4	47	13.9	17	103.4
Clallam	50	15.1	10	166.1					50	15.1	10	166.1
Clark	251	12.0	52	73.5					251	12.0	52	73.5
Columbia					2	12.5			2	12.5		
Cowlitz	159	12.3	38	79.9					159	12.3	38	79.9
Douglas					14	12.1	4	87.0	14	12.1	4	87.0
Ferry					5	14.0	2	120.5	5	14.0	2	120.5
Franklin			1	800.0	59	14.0	21	208.8	59	14.0	22	235.6
Garfield												
Grant			1	862.0	44	12.8	7	125.7	44	12.8	8	217.8
Grays Harbor	97	13.4	18	238.1					97	13.4	18	238.1
Island	28	13.5	10	110.2					28	13.5	10	110.2
Jefferson	3	13.0	3	51.3					3	13.0	3	51.3
King	1353	12.9	254	148.4					1353	12.9	254	148.4
Kitsap	173	13.8	41	130.5					173	13.8	41	130.5
Kittitas					5	12.4	2	26.5	5	12.4	2	26.5
Klickitat	8	12.9	6	36.0			1	60.0	8	12.9	7	39.4
Lewis	70	12.3	9	85.3					70	12.3	9	85.3
Lincoln					9	13.3	3	123.3	9	13.3	3	123.3
Mason	28	14.5	16	133.6					28	14.5	16	133.6

Table 4 continues on the following page.

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
Okanogan					56	12.6	7	186.3	56	12.6	7	186.3
Pacific	9	14.7	1	182.0					9	14.7	1	182.0
Pend Oreille					5	12.0	5	52.6	5	12.0	5	52.6
Pierce	600	13.5	84	101.3					600	13.5	84	101.3
San Juan			2	51.0							2	51.0
Skagit	70	13.2	20	211.5					70	13.2	20	211.5
Skamania	4	13.0							4	13.0		
Snohomish	265	11.2	66	136.7					265	11.2	66	136.7
Spokane	1	16.0	2	187.0	271	12.9	82	206.4	272	12.9	84	206.0
Stevens					18	11.7	3	252.7	18	11.7	3	252.7
Thurston	146	15.3	29	158.9					146	15.3	29	158.9
Wahkiakum	3	11.0	2	85.5					3	11.0	2	85.5
Walla Walla	1	16.0			21	12.0	4	342.5	22	12.2	4	342.5
Whatcom	132	13.2	18	180.3					132	13.2	18	180.3
Whitman					7	15.9	2	99.5	7	15.9	2	99.5
Yakima					160	17.2	21	217.0	160	17.2	21	217.0
TOTAL	3451	12.99	683	135.18	874	13.97	223	191.24	4325	13.2	906	149.0

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

- Outcomes:** WSH took, on average, 12.99 days to complete a jail-based evaluation (as compared to 12.64 days in the 2020 reporting period) and 135.18 days to complete a PR evaluation (as compared to 181.37 days in 2020). ESH took, on average, 13.97 days to complete a jail-based evaluation (as compared to 13.46 days in the 2020 reporting period) and 191.24 days to complete a PR evaluation (as compared to 154.51 days in 2020).
- Drivers:** The average referral completion timeframe for jail-based evaluations at WSH and ESH were slightly higher but largely little changed in comparison to the previous reporting period. PR evaluation timelines increased significantly at ESH and decreased significantly at WSH. As previously discussed, COVID-19 related challenges have caused significant impacts on PR referrals especially as more and more in-custody referrals are made requiring resources to shift to serve class members.

Table 5. 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 By County, Hospital, and Order Type 10/1/2020 - 9/30/2021				
Statewide Outpatient Competency Restoration				
COUNTY	JAIL		PR	
	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral
Adams				
Asotin				
Benton				
Chelan				
Clallam				
Clark			13	2.4
Columbia				
Cowlitz			1	11.0
Douglas				
Ferry			2	1.0
Franklin				
Garfield				
Grant				
Grays Harbor				
Island	1	22.0		
Jefferson				
King			2	10.0
Kitsap				
Kittitas				
Klickitat			1	0.0
Lewis				
Lincoln				
Mason				
Okanogan				
Pacific				
Pend Oreille				
Pierce	1	7.0	17	4.1
San Juan				
Skagit				
Skamania				
Snohomish			2	9.5
Spokane	1	3.0	10	2.7
Stevens				
Thurston			1	3.0
Wahkiakum				
Walla Walla				
Whatcom				
Whitman				
Yakima				
TOTAL	3	10.67	49	3.73
Data Note: The average across counties for both hospitals is a weighted average and is based on reported averages only.				

- **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. Two of the programs opened July 1, 2020 on schedule. The third program in the southwest Washington region opened on September 1. The table above shows clients referred to OCRP directly from jail as well as those referred to OCRP from a community-based PR status. The data also includes referrals from courts in counties not yet eligible to refer defendants to OCRP.
- **Drivers:** OCRP has been operation in seven of 10 Phase 1 counties for 18 months now and is preparing for a March 2022 Phase 2 implementation in the King region. 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 programming and to plan for opening services in King County. Continued outreach and education to the criminal court system and other stakeholders is a critical piece of awareness being worked on to drive utilization 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.

Table 6. Describes outpatient restoration admissions and the days on average from referral completion to treatment start by county, hospital, and order type.

Number of Outpatient Competency Restoration Program Admissions and By County, Hospital, and Order Type Target: 7 Days for Jail, 21 Days for PR 10/1/2020 - 9/30/2021				
Statewide Outpatient Competency Restoration				
COUNTY	JAIL		PR	
	# Program Start	Average Days to Start	# Program Start	Average Days to Start
Adams				
Asotin				
Benton				
Chelan				
Clallam				
Clark			12	4.6
Columbia				
Cowlitz				
Douglas				
Ferry			1	2.0
Franklin				
Garfield				
Grant				
Grays Harbor				
Island				
Jefferson				
King				
Kitsap				
Kittitas				
Klickitat			1	0.0
Lewis				
Lincoln				
Mason				
Okanogan				
Pacific				
Pend Oreille				
Pierce	1	2.0	13	1.8
San Juan				
Skagit				
Skamania				
Snohomish				
Spokane	1	5.0	6	3.2
Stevens				
Thurston				
Wahkiakum				
Walla Walla				
Whatcom				
Whitman				
Yakima				
TOTAL	2	3.50	33	3.00

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

- **Outcomes:** OCRP began 18 months ago in the Phase 1 regions. Data is from this reporting period and remains limited; however, during this reporting period, two clients enrolled directly from jail and 33 from a community-based PR status.
- **Drivers:** To comply with statute and the Trueblood decision, clients with completed OCRP referrals need to be admitted into treatment within seven-days. All of the counties reporting enrolled clients are in compliance with this standard.

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 this plan to the Court on May 6, 2016. The long-term plan can be found by visiting:

<https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/Trueblood/2016Trueblood/Combine-d-Long-Term-Plan-2016-05-06.pdf> .

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, (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.

1. Building workforce

During the reporting period, training for evaluators continued and OFMHS will continue to track the impacts of additional evaluation capacity on timeliness for competency evaluations and admission into restoration beds. The competency restoration programming (Breaking Barriers) was revised during this period and training continues to occur at all sites to help with the early referral process (this helps increase the turnover in bed use thereby allowing the department to serve more individuals and work toward compliance). Technical assistance for jails and workforce development staff were hired during the 2018-2019 reporting period. They have developed and presented numerous training programs as well as staffed the pandemic-critical video telehealth evaluation expansion. The Legislature authorized hiring an additional 13 forensic evaluators during FY 2020. All 13 were hired and working prior to June 1,

2020. OFMHS hired the five new forensic evaluators allotted under the FY 2021 budget year. The Forensic Navigator Program began Q3 2020, already resulting in enhanced opportunities to connect clients to services and to ensure basic needs are met.

Navigators participated in extensive workforce training, orientation, and outreach to community partners in an effort to build bridges and to be highly effective from the start. During the 2021-2022 reporting period, forensic navigators are implementing the program in the King region, which will result in a team of nine navigators serving King County.

2. Expanding bed capacity

During previous reporting periods, 104 new beds were opened including 27 beds at ESH, 15 beds at WSH, and 54 beds at two temporary alternate competency restoration sites. The department completed the renovation of Building 27 at WSH, which added 30 new permanent restoration beds. Building 27 opened as the Fort Steilacoom Competency Restoration Program in late August 2019. WSH and ESH each brought two forensic wards online in fiscal year 2021. WSH is converting civil beds to forensic (40 beds), and ESH is remodeling empty building space into forensic wards (50 beds). ESH brought its two new wards online. On June 1, 2020, 1N3 opened with 25 new beds, and on Aug. 3, 3N3 opened the other 25-beds. WSH opened its new beds in February 2021. During the 2021-2022 reporting period, WSH is scheduled to open two additional 29-bed forensic competency restoration wards in fall 2022 and winter 2023.

3. Decreasing demand for competency services

DSHS completed its work to build an integrated forensic data system to include consistent data entry and tracking of all class members from creation of the court order for competency evaluation through completion of evaluation and/or restoration services. The new system went live on Aug. 1, 2018 and provides evaluators the ability to access discovery documents, regardless of location, to reduce delays. It also provides a platform for quality reporting from a single system, eliminating the variability inherent in leveraging legacy applications not meant for this purpose. After launching FDS, the department has continued to develop and enhance the data system, substantially improving its capabilities over time.

Mobile equipment (laptops, phones) was deployed to evaluators in addition to microphones for use with dictation software (Dragon). The use of a virtual private network by the evaluators, during travel, was positively received. Field reports confirm it is a much more efficient method for submitting and reviewing dictation and editing work, and that access to VPN reduces the turnaround time on reports.

The OFMHS liaison and diversion specialist worked with community and county

service providers to create increased use of diversion throughout the state allowing for more potential clients to be diverted into community-based treatment. As part of the Trueblood Settlement Agreement, DSHS and HCA implemented programs in 2020 to decrease the need for forensic/competency services by expanding diversion services in 10 counties. This is in addition to 12 fine funded diversion programs and three state funded programs already in operation to decrease the demand of competency services. This includes implementation of OCRP in the 10 Phase 1 counties in summer 2020. Over time, the community-based outpatient treatment slots are expected to reduce demand for utilization of inpatient beds freeing those assets for more acutely sick clients. Implementation of OCRP in the Phase 2 King region will serve as an important diversion milestone, and the liaison and diversion specialist continues to work toward additional diversion slots around the state.

The department partnered with the Legislature on E2SSB 5444, Chapter 326, Laws of 2019 that among other important changes, enabled courts to not order restoration treatment, in certain proceedings, if there was not a compelling state interest to do so. The new statute took effect on July 28, 2019. With more than two full years of operations under the new law, unfortunately, so far, the attributable change in court-ordered restorations is minimal. Additional outreach and legal education continues, and OFMHS continues to look at other potential statutory changes that may reduce the demand on existing systems as well.

NEXT STEPS

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 (3) decreasing demand for competency services.

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 these programs as well. Important to this work is the expansion of Trueblood programs into the King region as part of Phase 2. The Legislature's funding support to maintain progress from Phase 1 as well as to proceed with Phase 2 implementation has been greatly appreciated.

Additionally, the United States District Court for the Western District of Washington approved the Trueblood 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 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 upcoming 2021-2022 reporting period will begin to see implementation of Phase 2 programming in King County as well as expanded Phase 1 data availability.

SUMMARY

The department will continue to work on meeting compliance standards set out by the Court and Legislature. OFMHS continues to work on what impacts can be made with regard to (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. OFMHS and our partners also live with the reality that COVID-19 continues as a pandemic into the foreseeable future. Even with critical efforts to mitigate its affects, impacts on our services or our partners services are certain.