

REPORT TO THE LEGISLATURE

**Forensic Admissions & Evaluations
2020 Annual Report
October 1, 2019 – September 30, 2020**

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

December 1, 2020

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.....	16
COUNTY LEVEL RESULTS	16
SECTION 3: ACTIONS TAKEN.....	29
1. Building workforce	29
2. Expanding bed capacity	30
3. Decreasing demand for competency services	30
NEXT STEPS.....	31
SUMMARY.....	32

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)¹ 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 2020 annual report provides data on the timeliness of competency to stand trial services during the reporting period from October 1, 2019 through September 30, 2020. 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, DSHS:

- Acquired the services of a full-time professional recruiter from the DSHS Headquarters Human Resource Division (HQ HRD) Talent Acquisition group.
- Filled leadership and management positions for the BHA Office of Forensic Mental Health Services (OFMHS).

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 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.

- Worked with the Maple Lane project team to identify, recruit, assess and hire 24 residential rehabilitation counselors, 13 security guards and 3 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 (SIA) to allow Western State Hospital (WSH) 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 (ESH) in May 2016.

In Washington state, prior to 2016, forensic mental health services are provided within heightened security facilities at two adult state psychiatric hospitals. By September 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 house individuals who were found not guilty by reason of insanity (NGRI).

On September 30, 2016, the Forensic Services Unit at ESH had a total of 125 beds with 55 of those beds designated for 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 (FSCRCP) 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's final implementation plan occurred in late June 2019, in time to allow Phase 1 of the 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 contempt settlement agreement's final implementation plan. Several fiscal year 2020 funded programs began activities in Q3 2019 during the annual October 1, 2018 through September 30, 2019 reporting period. These activities were initially reported in last year's annual report, and these items are updated below to include activities from the October 1, 2019 to September 30, 2020 reporting period.

- Began hiring the 13 new forensic evaluator positions authorized in fiscal year 2020. All 13 evaluators were hired and began working by June 1, 2020. OFMHS began work to hire its new allotment of five forensic evaluators funded for FY 2021.
- 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.
- Forensic navigator administrator continued work to design the navigator program and prepare it for a July 1, 2020 implementation. 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 are developing strong relationships with our court and outpatient restoration partners and are already 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 (HCA) prepared outpatient competency restoration services for implementation on July 1, 2020. Two of the three regions launched programs on July 1, 2020, and the Southwest region delayed its launch until September 1, 2020.

In addition to the activities updated above, the following initiatives are underway for the October 1, 2019 to September 30, 2020 reporting period.

- Ninety-two additional forensic beds are being 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 has been maintained as a high priority capital project throughout the pandemic response.

After several delays, WSH's 40-beds on wards E3 and E4 are expected to open in Q1 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 to 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 tele-health video 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.

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.

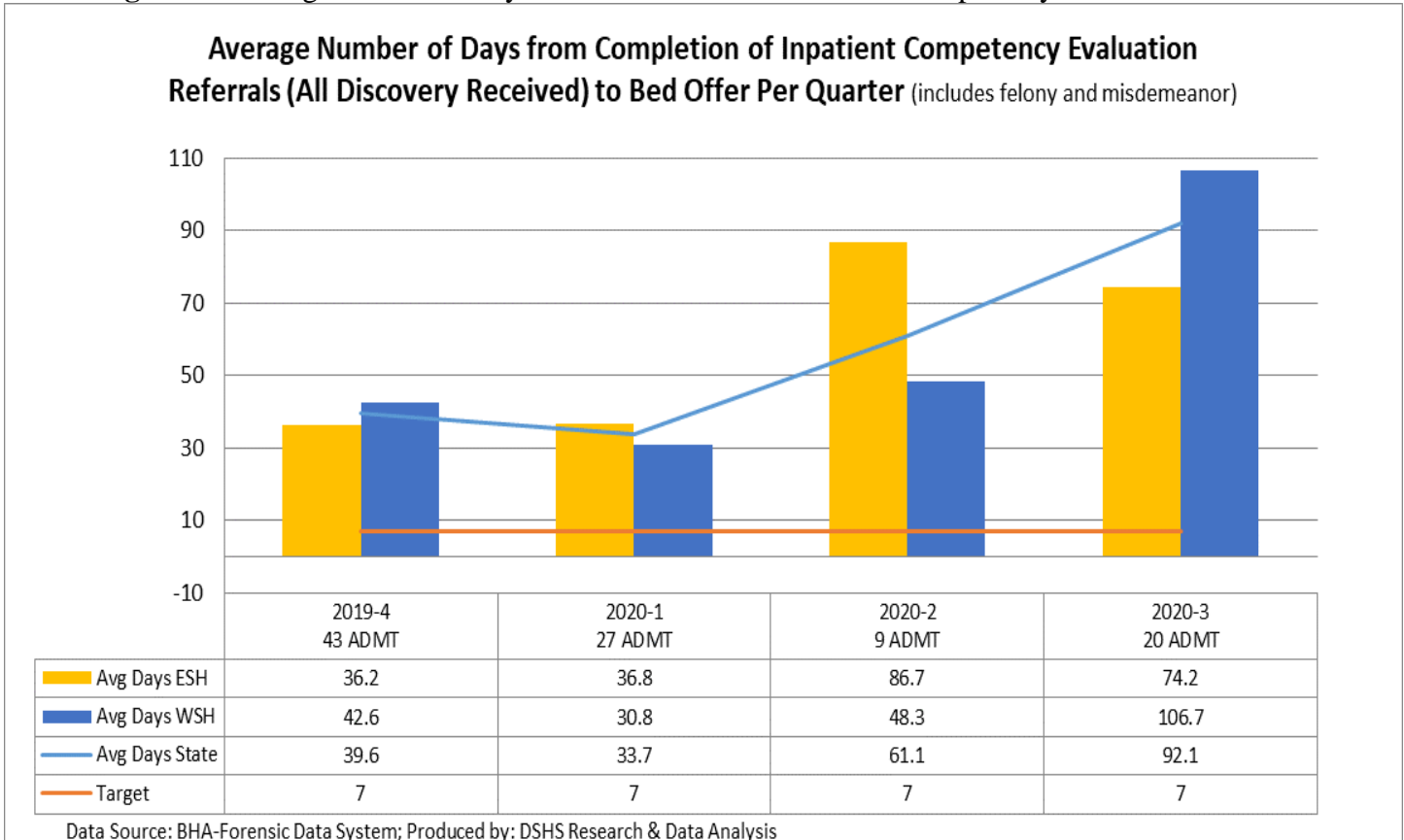
Additional detailed data and information about timely competency services is available in monthly reports published by the Department of Social and Health Services in compliance with requirements established in the April 2015 Trueblood court order. These reports are available at:

<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



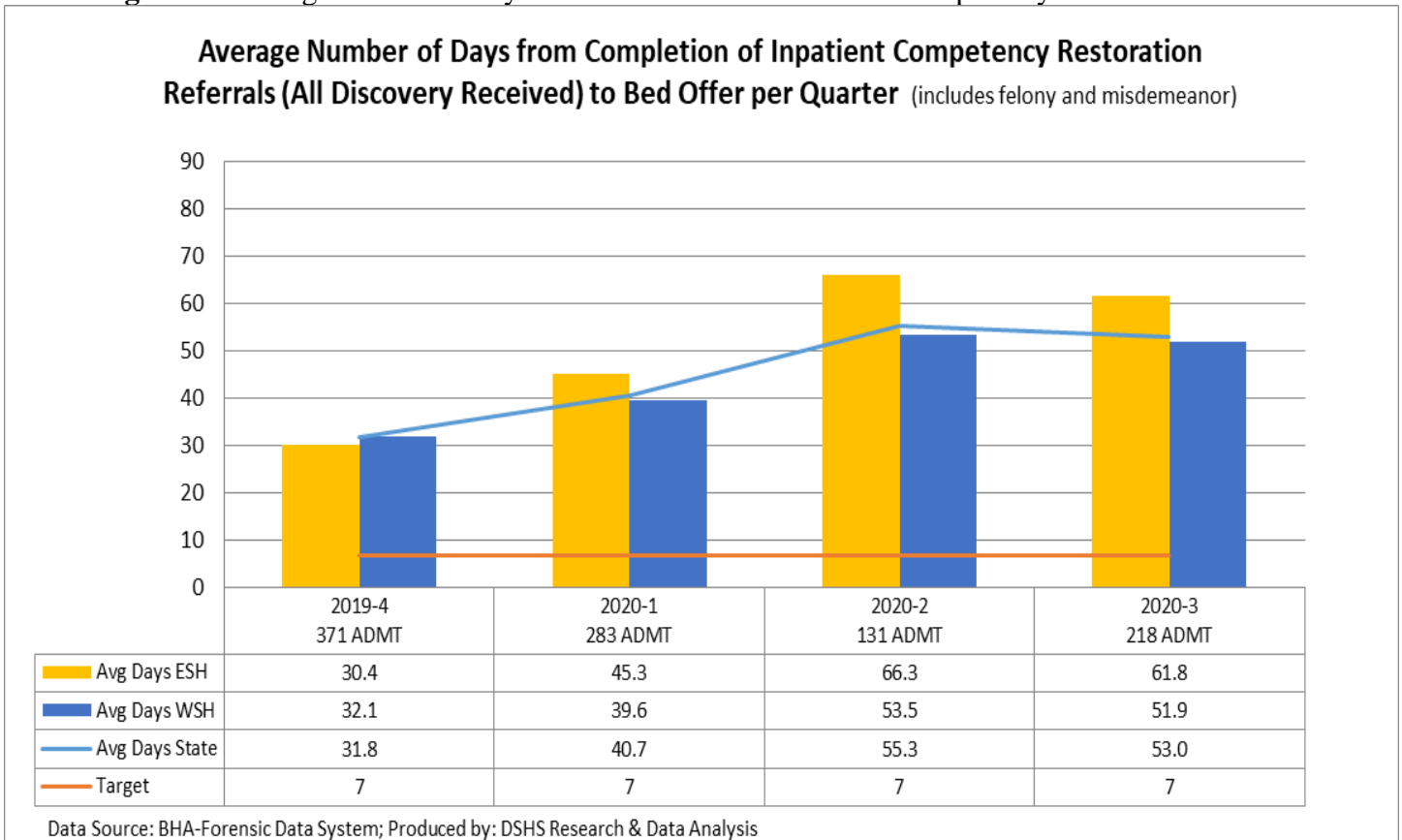
Data Notes:

- 1) Due to limitations of the data system at Eastern State Hospital, some previous quarters may have included both competency and non-competency referrals.
- 2) 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 the wait times related to hospital admission for inpatient competency evaluations (including PR's (defendants released on Personal Recognizance)).
- **Outcomes:** During the reporting period, WSH and ESH initially showed combined improvement through Q1 2020 before both hospitals, and therefore the combined state wide wait times nearly tripled through Q3 2020.
- **Drivers:** During Q4 2019 and Q1 2020, the typical seasonal drop in demand is responsible for much of the improvement in wait times. COVID-19 arrived to the state in February 2020, and COVID-related impacts reached the system by March. Q2 and Q3's substantial increases in wait times are driven by various pandemic-

related factors including: implementation of social distancing in the forensic wards, in part, by reducing patient census; admissions holds on wards due to active COVID-19 cases among clients, staff, or both; slowdown in referrals due to pandemic-related court closures and reductions in court case throughput; and pandemic-related challenges in restoration program delivery.

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



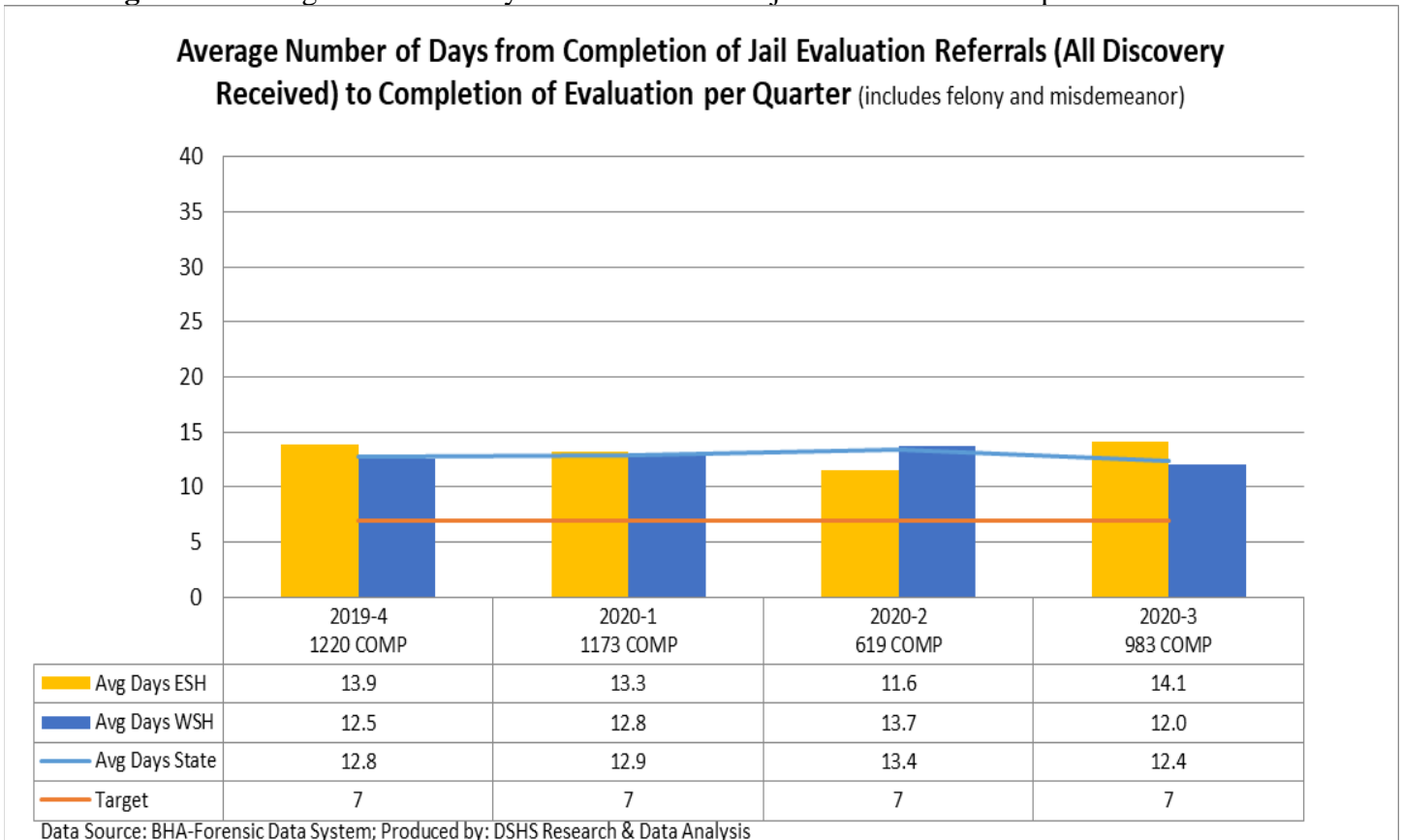
Data Note:

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 the wait times related to hospital admission for inpatient competency restoration treatment (including PR’s).
- **Outcomes:** During the reporting period WSH saw an increase in average wait times of 38.2 percent while ESH saw its wait times more than double.
- **Drivers:** The factors driving the numbers here are much like those from Figure 1, above. Backlog build-up and seasonality are again in play; with the added pressure of lack of available restoration beds for those waiting for admission. Additionally, restoration beds typically turn over more slowly and require longer lengths of stay compared to evaluations’ beds, so there is less throughput for these beds. Additionally, COVID-19 arrived to the state in February 2020, and COVID-related impacts reached the system by March. Q2’s substantial increases in wait times were driven by various pandemic-related factors including: implementation of social distancing in the forensic wards, in part, by reducing patient census;

admissions holds on wards due to active COVID-19 cases among clients, staff, or both; slowdown in referrals due to pandemic-related court closures and reductions in court case throughput; and pandemic-related challenges in restoration program delivery. Q3 enjoyed a very slight moderation in wait times as 50 additional beds at ESH began coming online in Q2 and Q3.

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



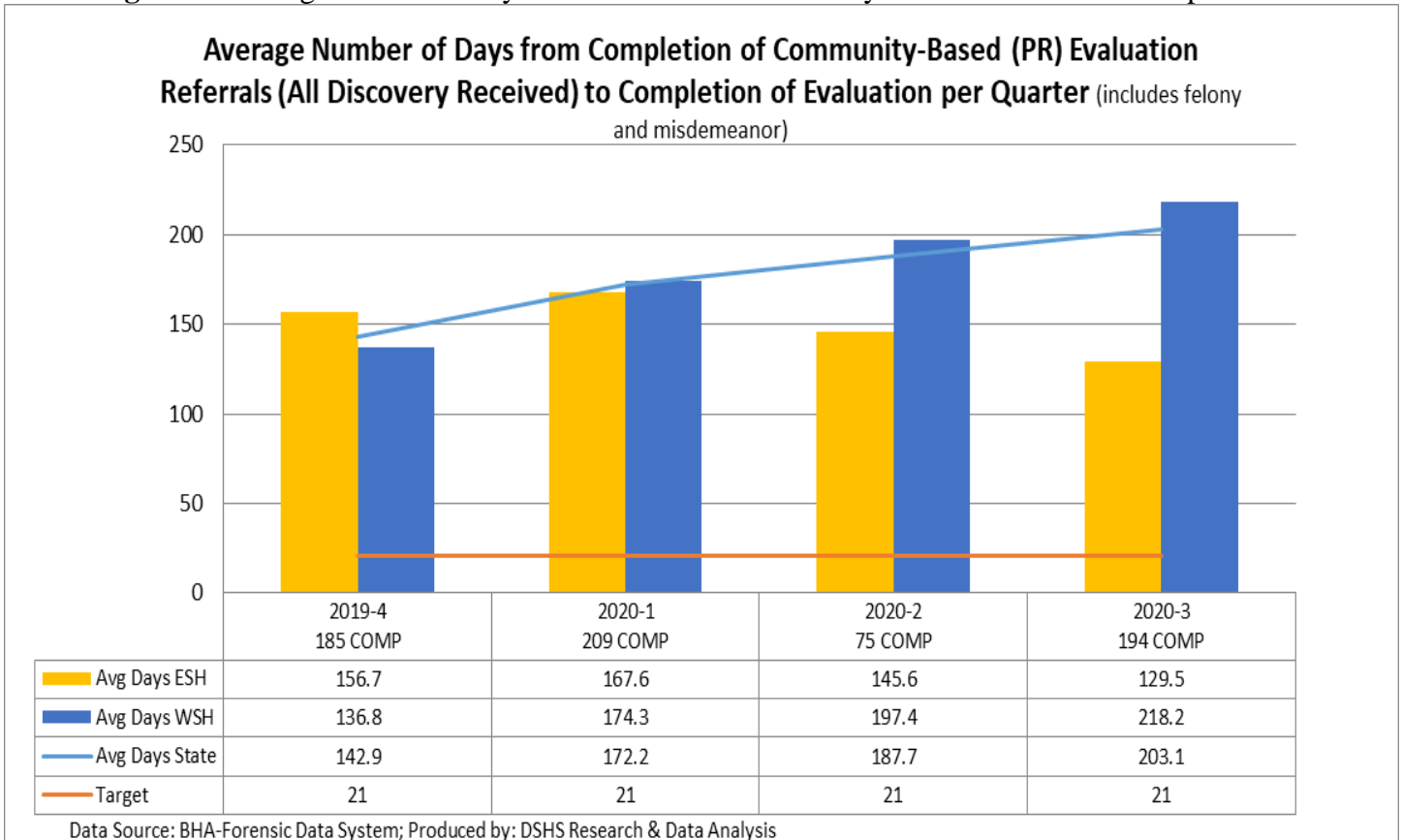
Data Notes:

- 1) Due to limitations of the data system at Eastern State Hospital, some previous quarters may have included both competency and non-competency referrals.
- 2) 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:** State wide average days to completion went up-and-down a bit during this reporting period; however, Q1 to Q2 evaluation demand collapsed as a result of the COVID-19 pandemic. Demand recovered substantially in Q3 relative to Q2 levels, but it still remained approximately 20 percent below pre-pandemic levels.
- **Drivers:** The performance numbers here remain strong; while the statutory target is 7-days, both WSH and ESH are primarily well within the 14-day target demanded by the Trueblood decision. This success has been realized due to the hard work of forensic evaluators and key staff added to OFMHS over the past four years. Continued utilization of technology, and development of relationships with jail staff, have also contributed to this continued success. The Legislature’s funding of the Trueblood settlement’s Phase 1 especially new forensic evaluators,

evaluator supervisors, and evaluator support staff has also offered substantial contributions toward timely evaluation completion in the face of withering services demand increases on a sustained basis. COVID-19 quickly cut referral demand by nearly 50 percent in Q2 2020 before it recovered partially in Q3 2020. Courts declined to jail and file charges in many more cases due to COVID-19, and even when charges were filed and clients jailed, court closures and slowdowns in case throughput resulted in substantial decreases in referrals to OFMHS.

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



Data Notes:

- 1) Due to limitations of the data system at Eastern State Hospital, some previous quarters may have included both competency and non-competency referrals.
- 2) 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 reporting period, WSH experienced an increase in completion times for community-based evaluation referrals of 81.4-days, while ESH initially increased by 10.9-days before decreasing substantially over the remaining quarters by a net 27.2-days. While the hospitals presented a mixed result with regards to completion times within the reporting period, statewide completion times rose significantly each quarter. As a system, average evaluation times increased on average by 60.2-days, or approximately 30 percent, finishing Q3 2020 well above the target average of 21-days.

- ***Drivers:*** Two primary drivers here of the department’s difficulty in adequately serving community-based referrals are evaluator capacity and the fact that PR clients are not Trueblood Class Members. Because these clients are not Class Members, evaluator capacity is focused on meeting timeline requirements of the Trueblood decision in addition to timelines associated with forensic risk assessments for the NGRI population and civil commitment petitions. Add to that the fact that this group of clients very often cannot be located, or do not show up for appointments, and the performance numbers are negatively impacted by realities outside the control of OFMHS. Additionally, Q2’s unusual large decrease in referrals is driven by various pandemic-related factors including pandemic-related court closures, reductions in court case throughput, and dismissal of existing charges/fewer new charges being filed.

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. For the first time, outpatient restoration data is included in this report. See Tables 5 and 6 for additional 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 10/1/2019 - 9/30/2020												
COUNTY	WESTERN STATE HOSPITAL				EASTERN STATE HOSPITAL				TOTAL			
	EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS		EVALUATIONS		RESTORATIONS	
	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral	# Referrals Received	Average Days to Completed Referral
ADAMS					1	0.0	8	0.0	1	0.0	8	0.0
ASOTIN					1	0.0	1	1.0	1	0.0	1	1.0
BENTON			1	0.0	4	0.0	33	1.1	4	0.0	34	1.1
CHELAN					9	0.2	19	3.4	9	0.2	19	3.4
CLALLAM			28	0.4							28	0.4
CLARK	5	0.0	110	1.8			2	0.0	5	0.0	112	1.8
COLUMBIA												
COWLITZ	1	1.0	36	0.4			2	0.0	1	1.0	38	0.4
DOUGLAS					1	0.0	2	0.5	1	0.0	2	0.5
FERRY					3	1.0	2	0.5	3	1.0	2	0.5
FRANKLIN					7	0.1	24	0.7	7	0.1	24	0.7
GARFIELD							1	0.0			1	0.0
GRANT			3	0.0	14	0.1	17	1.5	14	0.1	20	1.3
GRAYS HARBOR	1	0.0	28	0.7			1	0.0	1	0.0	29	0.7
ISLAND			13	1.6							13	1.6
JEFFERSON			8	12.0							8	12.0
KING	40	0.2	429	0.3	2	0.0	27	1.3	42	0.2	456	0.4
KITSAP	1	0.0	60	0.5			2	0.0	1	0.0	62	0.5
KITITIAS					3	5.0	2	0.0	3	5.0	2	0.0
KLICKITAT			1	0.0	5	0.6	2	0.5	5	0.6	3	0.3
LEWIS	1	0.0	43	0.3					1	0.0	43	0.3
LINCOLN							2	0.0			2	0.0
MASON	4	2.0	25	2.4			1	1.0	4	2.0	26	2.4
OKANOGAN					6	1.2	13	2.1	6	1.2	13	2.1
PACIFIC			7	0.4			1	0.0			8	0.4
PEND OREILLE					2	0.0			2	0.0		
PIERCE	12	1.6	259	2.6			5	0.6	12	1.6	264	2.5
SAN JUAN												
SKAGIT	1	0.0	47	0.1			1	0.0	1	0.0	48	0.1
SKAMANIA			1	0.0							1	0.0
SNOHOMISH	7	0.7	126	2.1			2	0.0	7	0.7	128	2.0
SPOKANE			6	0.3	27	0.4	68	1.8	27	0.4	74	1.7
STEVENS					2	0.0	5	2.6	2	0.0	5	2.6
THURSTON	2	1.5	112	1.3			3	1.0	2	1.5	115	1.3
WAHIAKUM			2	0.0							2	0.0
WALLA WALLA					5	0.0	8	1.0	5	0.0	8	1.0
WHATCOM	1	0.0	89	6.0			12	0.3	1	0.0	101	5.4
WHITMAN												
YAKIMA					15	1.3	51	0.2	15	1.3	51	0.2
TOTAL	76	0.57	1434	1.54	107	0.58	317	1.18	183	0.6	1751	1.5

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 0.57 and 1.54 days (for evaluation referrals and restoration referrals, respectively) to get completed referral packets to WSH. Counties in the ESH catchment area took 0.58 and 1.18 days respectively. These numbers have fluctuated over the past five reporting cycles, but show strong overall. The counties in ESH's catchment area dramatically improved the time needed to get completed restoration referral packets to ESH. The average time decreased from 4.07 days in the 2017-2018 reporting period, a 71 percent improvement.
- **Drivers:** This improvement is attributed to the OFMHS Liaison and Admissions Coordinator and hospital support staff working with counties to streamline this 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 10/1/2019 - 9/30/2020												
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							4	38.0			4	38.0
ASOTIN					1	36.0	1	0.0	1	36.0	1	0.0
BENTON			1	24.0	1	35.0	28	51.0	1	35.0	29	50.0
CHELAN					4	23.0	14	32.8	4	23.0	14	32.8
CLALLAM			27	68.4							27	68.4
CLARK	6	68.8	70	42.5			1	54.0	6	68.8	71	42.6
COLUMBIA												
COWLITZ	1	48.0	12	25.5					1	48.0	12	25.5
DOUGLAS					1	23.0			1	23.0		
FERRY					3	52.3	1	3.0	3	52.3	1	3.0
FRANKLIN					3	40.3	15	34.2	3	40.3	15	34.2
GARFIELD							1	6.0			1	6.0
GRANT			3	16.0	5	49.2	8	44.9	5	49.2	11	37.0
GRAYS HARBOR			23	38.8			1	128.0			24	42.5
ISLAND			10	41.8							10	41.8
JEFFERSON			5	42.0							5	42.0
KING	28	56.1	309	33.4			5	67.0	28	56.1	314	33.9
KITSAP	1	64.0	52	31.9					1	64.0	52	31.9
KITITIAS					1	50.0	3	35.7	1	50.0	3	35.7
KLICKITAT			1	52.0	1	148.0	2	11.0	1	148.0	3	24.7
LEWIS	1	65.0	33	55.3					1	65.0	33	55.3
LINCOLN												
MASON	4	28.8	17	31.6					4	28.8	17	31.6
OKANOGAN					1	37.0	8	38.6	1	37.0	8	38.6
PACIFIC			8	50.4			1	108.0			9	56.8
PEND OREILLE												
PIERCE	11	36.0	217	43.1					11	36.0	217	43.1
SAN JUAN												
SKAGIT	3	63.7	37	59.0					3	63.7	37	59.0
SKAMANIA			1	39.0							1	39.0
SNOHOMISH	1	98.0	83	57.4					1	98.0	83	57.4
SPOKANE			5	26.8	16	47.4	50	37.6	16	47.4	55	36.6
STEVENS					1	30.0	4	22.8	1	30.0	4	22.8
THURSTON	1	34.0	45	35.4					1	34.0	45	35.4
WAHIAKUM			2	6.5							2	6.5
WALLA WALLA					3	63.3	6	40.7	3	63.3	6	40.7
WHATCOM	2	36.5	46	37.7			3	57.0	2	36.5	49	38.9
WHITMAN												
YAKIMA					4	49.5	29	30.7	4	49.5	29	30.7
TOTAL	59	52.02	1007	41.02	45	47.16	185	39.22	104	49.91	1192	40.74

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 52.02 days for evaluation beds and 41.02 days for restoration beds. Counties in the ESH catchment area had wait times of 47.16 days for evaluation beds and 39.22 days for restoration beds.
- **Drivers:** WSH presented mixed results with evaluation wait times decreasing but restoration wait times increasing. Restoration beds are most in demand, and the ongoing need for additional beds results in the backlog building up, as wait times increase. ESH wait times have also increased this reporting cycle as average wait for evaluation and restoration beds experienced substantial increases exceeding 24 percent for evaluations and 15 percent for restorations.

Table 3. Describes the number of days counties took to complete a referral for outpatient (jail-based and PR) competency services from order signature to the time the county forwarded all documents necessary for a complete referral. 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 Orders Received and Average Number of Days from Order Signature to Completion of Referral (All Discovery Received) By County, Hospital, and Order Type 10/1/2019 - 9/30/2020												
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					5	0.8	6	20.0	5	0.8	6	20.0
ASOTIN					7	0.4	3	0.3	7	0.4	3	0.3
BENTON					87	1.6	46	1.4	87	1.6	46	1.4
CHELAN					47	1.7	8	1.9	47	1.7	8	1.9
CLALLAM	53	0.3	13	0.7					53	0.3	13	0.7
CLARK	229	0.9	58	1.4					229	0.9	58	1.4
COLUMBIA					1	1.0	3	1.0	1	1.0	3	1.0
COWLITZ	96	0.9	32	0.6					96	0.9	32	0.6
DOUGLAS					2	1.0	1	1.0	2	1.0	1	1.0
FERRY					6	2.8	1	0.0	6	2.8	1	0.0
FRANKLIN					79	0.7	27	0.9	79	0.7	27	0.9
GARFIELD							1	6.0			1	6.0
GRANT					38	0.8	6	0.0	38	0.8	6	0.0
GRAYS HARBOR	82	0.8	17	2.5					82	0.8	17	2.5
ISLAND	22	2.2	8	10.1	6	11.7			28	4.2	8	10.1
JEFFERSON	14	0.4	5	3.6					14	0.4	5	3.6
KING	1391	0.5	363	1.3					1391	0.5	363	1.3
KITSAP	191	0.3	54	3.2					191	0.3	54	3.2
KITITIAS					8	0.9	4	0.8	8	0.9	4	0.8
KLICKITAT	1	1.0	2	30.0	6	2.0			7	1.9	2	30.0
LEWIS	107	0.9	14	2.1					107	0.9	14	2.1
LINCOLN					2	1.0			2	1.0		
MASON	45	0.8	8	1.4					45	0.8	8	1.4
OKANOGAN					29	1.9	17	3.6	29	1.9	17	3.6
PACIFIC	17	2.4	1	0.0					17	2.4	1	0.0
PEND OREILLE					5	0.0			5	0.0		
PIERCE	640	1.1	131	2.0					640	1.1	131	2.0
SAN JUAN												
SKAGIT	74	0.6	22	0.4					74	0.6	22	0.4
SKAMANIA	3	0.0	2	0.0					3	0.0	2	0.0
SNOHOMISH	285	0.9	90	4.1					285	0.9	90	4.1
SPOKANE			2	0.5	247	1.3	156	3.6	247	1.3	158	3.6
STEVENS					7	0.1	6	10.8	7	0.1	6	10.8
THURSTON	181	1.3	56	1.1					181	1.3	56	1.1
WAHIAKUM	4	0.0	2	14.5					4	0.0	2	14.5
WALLA WALLA					22	2.0	9	6.6	22	2.0	9	6.6
WHATCOM	136	0.4	38	1.8	3	0.0			139	0.4	38	1.8
WHITMAN					6	3.2	1	0.0	6	3.2	1	0.0
YAKIMA					139	1.1	49	1.7	139	1.1	49	1.7
TOTAL	3571	0.74	918	1.98	752	1.34	344	3.11	4323	0.84	1262	2.29

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, 0.74 days to complete a jail-based referral, and 1.98 days to complete a PR referral. Counties in the ESH catchment area took, on average, 1.34 days to complete a jail-based referral, and 3.11 days to complete a PR referral.
- ***Drivers:*** On average, WSH and ESH show moderate decreases in jail-based referral processing times. Both hospitals returned to improving trends for processing PR cases as average time to process PR referrals decreased substantially compared to the 2018-2019 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 10/1/2019 - 9/30/2020												
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					5	11.6	5	145.4	5	11.6	5	145.4
ASOTIN					3	10.3			3	10.3		
BENTON					77	15.4	14	199.7	77	15.4	14	199.7
CHELAN					45	12.6	7	174.9	45	12.6	7	174.9
CLALLAM	46	14.4	4	259.5					46	14.4	4	259.5
CLARK	217	13.1	55	149.6					217	13.1	55	149.6
COLUMBIA					3	16.7	3	174.3	3	16.7	3	174.3
COWLITZ	81	9.3	19	104.5					81	9.3	19	104.5
DOUGLAS					1	14.0	3	204.0	1	14.0	3	204.0
FERRY					5	12.0	1	180.0	5	12.0	1	180.0
FRANKLIN					73	13.1	11	196.0	73	13.1	11	196.0
GARFIELD												
GRANT					31	10.7	3	161.7	31	10.7	3	161.7
GRAYS HARBOR	82	14.2	2	137.0					82	14.2	2	137.0
ISLAND	20	12.5	6	299.8	6	23.8			26	15.1	6	299.8
JEFFERSON	14	14.8	3	101.7					14	14.8	3	101.7
KING	1249	12.6	112	159.4					1249	12.6	112	159.4
KITSAP	185	12.9	43	216.6					185	12.9	43	216.6
KITTITAS					7	18.7	3	104.0	7	18.7	3	104.0
KLICKITAT					6	13.8	2	204.0	6	13.8	2	204.0
LEWIS	104	12.5	7	314.7					104	12.5	7	314.7
LINCOLN					2	11.5	2	155.5	2	11.5	2	155.5
MASON	42	13.5	12	217.0					42	13.5	12	217.0
OKANOGAN					27	18.0	6	211.7	27	18.0	6	211.7
PACIFIC	14	13.6	1	57.0					14	13.6	1	57.0
PEND OREILLE					5	9.2			5	9.2		
PIERCE	599	12.8	80	132.3					599	12.8	80	132.3
SAN JUAN												
SKAGIT	70	12.8	34	258.6			1	513.0	70	12.8	35	265.9
SKAMANIA	3	11.7	2	46.0					3	11.7	2	46.0
SNOHOMISH	252	12.2	44	196.8					252	12.2	44	196.8
SPOKANE					223	12.2	75	118.8	223	12.2	75	118.8
STEVENS					6	10.3			6	10.3		
THURSTON	175	12.8	50	249.7					175	12.8	50	249.7
WAHIAKUM	4	11.0	2	62.5					4	11.0	2	62.5
WALLA WALLA					22	13.1	7	167.1	22	13.1	7	167.1
WHATCOM	129	12.4	16	177.1	3	16.0			132	12.5	16	177.1
WHITMAN					6	14.8	1	193.0	6	14.8	1	193.0
YAKIMA					131	14.4	25	172.8	131	14.4	25	172.8
TOTAL	3286	12.64	492	181.37	687	13.46	169	154.51	3973	12.78	661	174.51

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, 12.64 days to complete a jail-based evaluation as compared to 12.28 days in the 2019 reporting period) and 181.37 days to complete a PR evaluation (as compared to 145.8 days in 2019). ESH took, on average, 13.46 days to complete a jail-based evaluation (as compared to 13.80 days in the 2019 reporting period) and 154.51 days to complete a PR evaluation (as compared to 133.32 days in 2018).
- **Drivers:** The timeframes at WSH and ESH were mixed but largely little changed in comparison to the previous reporting period for jail-based evaluations, while PR evaluation timelines increased significantly at both WSH and ESH. As previously discussed above, PR evaluations are fraught with potential delays; most notably, the inability to locate clients, clients not showing up for appointments, and the need to prioritize limited resources, especially at peak demand times, toward Trueblood class members, FRA assessments, and civil commitment petitions. COVID-19 exacerbated these challenges as well.

Tables 5 and 6 on the following pages, are new for this reporting period. These tables provide an initial limited look at data from the Outpatient Competency Restoration Program (OCRCP). OCRCP began serving clients on July 1 in the Pierce and Spokane regions, and services began on September 1, 2020 in the Southwest region. As of the end of this annual reporting period, which coincides with the end of the third quarter calendar-year reporting period, OCRCP is operating in all 10 Phase 1 Trueblood counties.

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 Average Number of Days from Order Signature to Completion of Referral (All Discovery Received) By County, Hospital, and Order Type				
10/1/2019 - 9/30/2020				
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			2	0.0
COLUMBIA				
COWLITZ				
DOUGLAS				
FERRY				
FRANKLIN				
GARFIELD				
GRANT				
GRAYS HARBOR				
ISLAND				
JEFFERSON				
KING				
KITSAP				
KITTITAS				
KLICKITAT				
LEWIS				
LINCOLN				
MASON				
OKANOGAN				
PACIFIC				
PEND OREILLE				
PIERCE			1	0.0
SAN JUAN				
SKAGIT				
SKAMANIA				
SNOHOMISH				
SPOKANE	3	0.0		
STEVENS				
THURSTON				
WAHKIAKUM				
WALLA WALLA				
WHATCOM				
WHITMAN				
YAKIMA				
TOTAL	3	0.00	3	0.00

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 (OCRP) 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 limited data available at the end of Q3 2020, shows three jail-based referrals and three PR-based referrals from three counties. Referrals from both source types completed on average in 0.0-days.
- **Drivers:** The programs commenced their client services phase during Q3, and it takes time to ramp up, work out real-world operational challenges, and improve systems. This work is well underway and has already resulted in improvements. Not reflected in the data is the critical partnership developed between OCRP and the new Forensic Navigators. Among many other tasks, navigators remove obstacles and assist OCRP eligible clients in obtaining needed services.

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 Average Number of Days from Completion of Referral (All Discovery Received) to Program Started By County, Hospital, and Order Type Target: 7 Days for Jail, 21 Days for PR 10/1/2019 - 9/30/2020				
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				
COLUMBIA				
COWLITZ				
DOUGLAS				
FERRY				
FRANKLIN				
GARFIELD				
GRANT				
GRAYS HARBOR				
ISLAND				
JEFFERSON				
KING				
KITSAP				
KITTITAS				
KLICKITAT				
LEWIS				
LINCOLN				
MASON				
OKANOGAN				
PACIFIC				
PEND OREILLE				
PIERCE			1	2.0
SAN JUAN				
SKAGIT				
SKAMANIA				
SNOHOMISH				
SPOKANE	3	6.0		
STEVENS				
THURSTON				
WAHKIAKUM				
WALLA WALLA				
WHATCOM				
WHITMAN				
YAKIMA				
TOTAL	3	6.00	1	2.00

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

- **Outcomes:** On extremely limited data due to the program's recent start on July 1, 2020, Spokane completed three jail-based referrals with an average referral completion to treatment start date of 6.0-days post referral. Pierce completed one PR-based referral, and the client began treatment 2.0-days post referral.
- **Drivers:** To comply with statute and the Trueblood decision, clients with completed OCRP referrals need to be admitted into treatment within seven-days. As program ramp up continues, more detailed statistics will become available in future quarterly and annual reports.

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 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. 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) has been updated/revised and training will continue to occur at all sites to help with the early referral process (as this will help 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 tele-health 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 has begun hiring 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 do not go unnoticed. 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.

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 are each working to bring two forensic wards online in fiscal year 2020. 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 August 3, 3N3 opened the other 25-beds. New beds are typically subject to a ramp up period prior to reaching census, and in addition this year, COVID-19 outbreaks at ESH have slowed admissions. WSH's new wards remain under construction, at this time as COVID-related delays have negatively affected work crews and the availability of construction materials in the supply chain.

3. Decreasing demand for competency services

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

Mobile equipment (laptops, phones) has been deployed to evaluators in addition to microphones for use with dictation software (Dragon). The use of a virtual private network (VPN) by the evaluators as they travel has been positively received. Reports from the field 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.

Additionally, the OFMHS liaison and diversion specialist is working with community and county service providers in an attempt to create increased use of diversion throughout the state that will allow for more potential clients to be diverted into community-based treatment.

As part of the Trueblood contempt settlement agreement, DSHS and the Health Care Authority 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.

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 one full year of operations under the new law, unfortunately, so far, the attributable change in court-ordered restorations is minimal. Additional outreach and legal education is planned, 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. Phase 2 begins July 1, 2021. Legislative funding support to maintain progress from Phase 1 as well as to proceed toward Phase 2 implementation will be required and greatly appreciated.

Additionally, 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 contempt 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 reporting period saw implementation of several new programs that have individual and collective potential to begin reducing demand for competency services and to improve the department's ability to timely deliver those services as required in state legislation and the Trueblood decision. With a full year of operations completed by the end of the 2020-2021 reporting period, additional data should be available to reflect on whether the demand curve for competency services has started flattening.

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.