

## **Report to the Legislature**

### **Forensic Admissions and Evaluations – Performance Targets 2014 First Quarter (January 1, 2014-March 31, 2014)**

Senate Bill 6492, Chapter 256, Laws of 2012, Section 2(3)  
As codified in RCW 10.77.068

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## EXECUTIVE SUMMARY

On May 1, 2012, RCW 10.77 was amended by Substitute Senate Bill 6492, Chapter 256, Laws of 2012. The amendment made changes to the evaluation process, set timelines for the admission and evaluation of forensic mental health patients, and required the State Hospitals to set up a system of reporting and accountability when performance targets were not met.

**Sec. 2.** *A new section is added to chapter 10.77 RCW to read as follows:*

*(1)(a) The legislature establishes the following performance targets for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient services related to competency to proceed or stand trial for adult criminal defendants. The legislature recognizes that these targets may not be achievable in all cases without compromise to quality of evaluation services, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy of competency evaluations, and to otherwise make sustainable improvements and track performance related to the timeliness of competency services:*

- (i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial, seven days or less;*
- (ii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody, seven days or less;*
- (iii) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, twenty-one days or less.*

*(3) Following any quarter in which a state hospital has failed to meet one or more of the performance targets in subsection (1) of this section after full implementation of the performance target, the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report must be made publicly available. An average may be used to determine timeliness under this subsection.*

As mandated by RCW 10.77.068(3), the following quarterly report explains the extent to which the hospitals deviated from performance targets in Quarter 1 of 2014 (January 1, 2014-March 31, 2014), and describes the hospitals' plans to meet these performance targets.

## **BACKGROUND**

In Washington, forensic mental health services are provided within heightened security facilities at the two adult state psychiatric hospitals. The Center for Forensic Services is a 270 bed facility at Western State Hospital (WSH). The Forensic Services Unit at Eastern State Hospital (ESH) has a total of 95 beds.

The data provided in this quarterly report show that performance targets for timely forensic services were not met.

The department is fully committed to the goal of improving timeliness of forensic mental health services. As noted in the department's March 31, 2014 response to the JLARC report, additional resources will be needed to meet JLARC's and the legislature's expectations. The June 30, 2014 consultant report noted that while "Washington faces significant challenges....Washington also appears to have a competent workforce who clearly recognize these challenges, and appear motivated to approach them constructively" (Forensic Mental Health Consultant Report, page 55). The report also states (page 8), "The feedback we received from almost every source described positively the COOs of Western and Eastern Hospital, as well as central office leadership. Indeed, it is a testament to these individuals that the system is not more problematic." In their conclusions, the consultants state that "almost any of the recommended changes will require resources..." (page 55).

### **Forensic Competency Referrals and Waitlist**

In the Joint Legislative Audit and Review Committee (JLARC) Competency to Stand Trial, Phase 1 Briefing Report (2012), it was noted that between 2001 and 2012, referrals for initial evaluations by the State Hospitals increased by 83%. The rate of growth in 2013 outstripped the annualized rate of growth for the previous decade. In 2013, this growth was primarily accommodated by increasing the rate at which evaluators were expected to complete evaluations and by shifting resources within

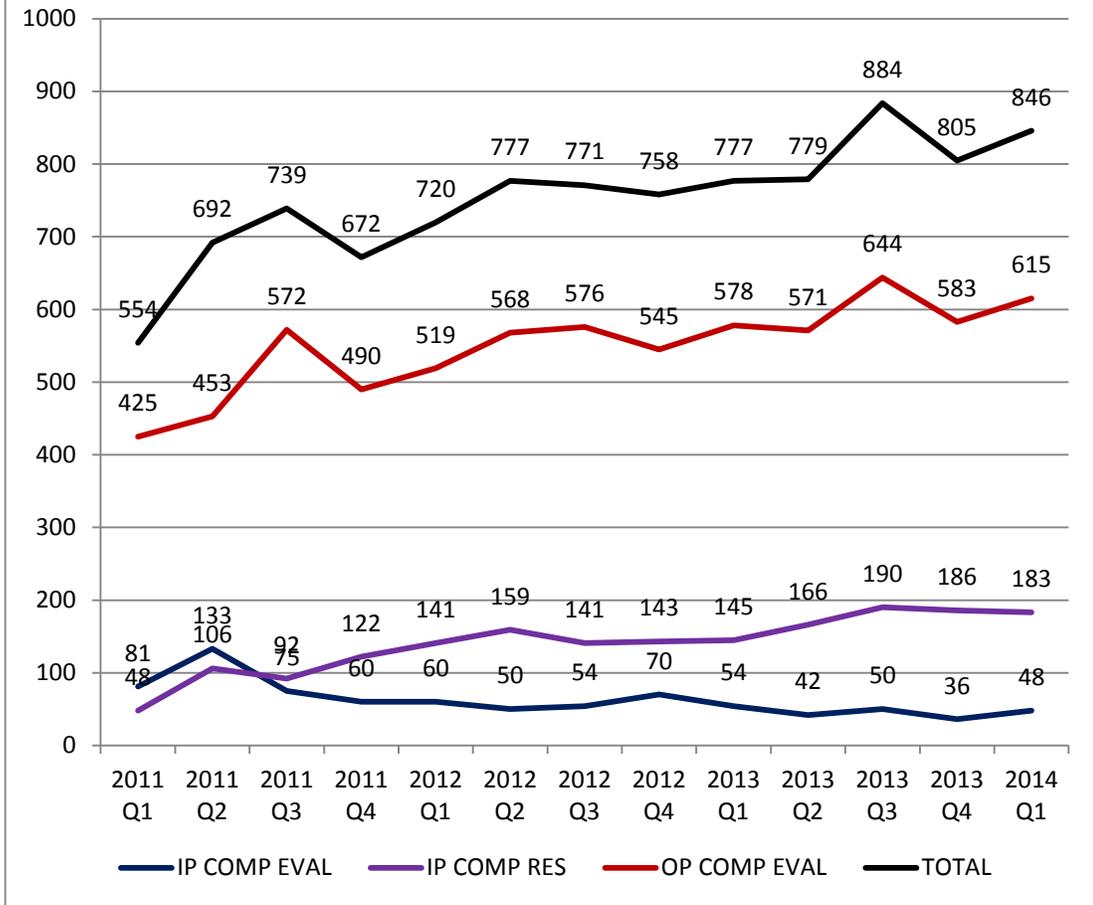
the hospital, rather than by requesting additional resources from the legislature.

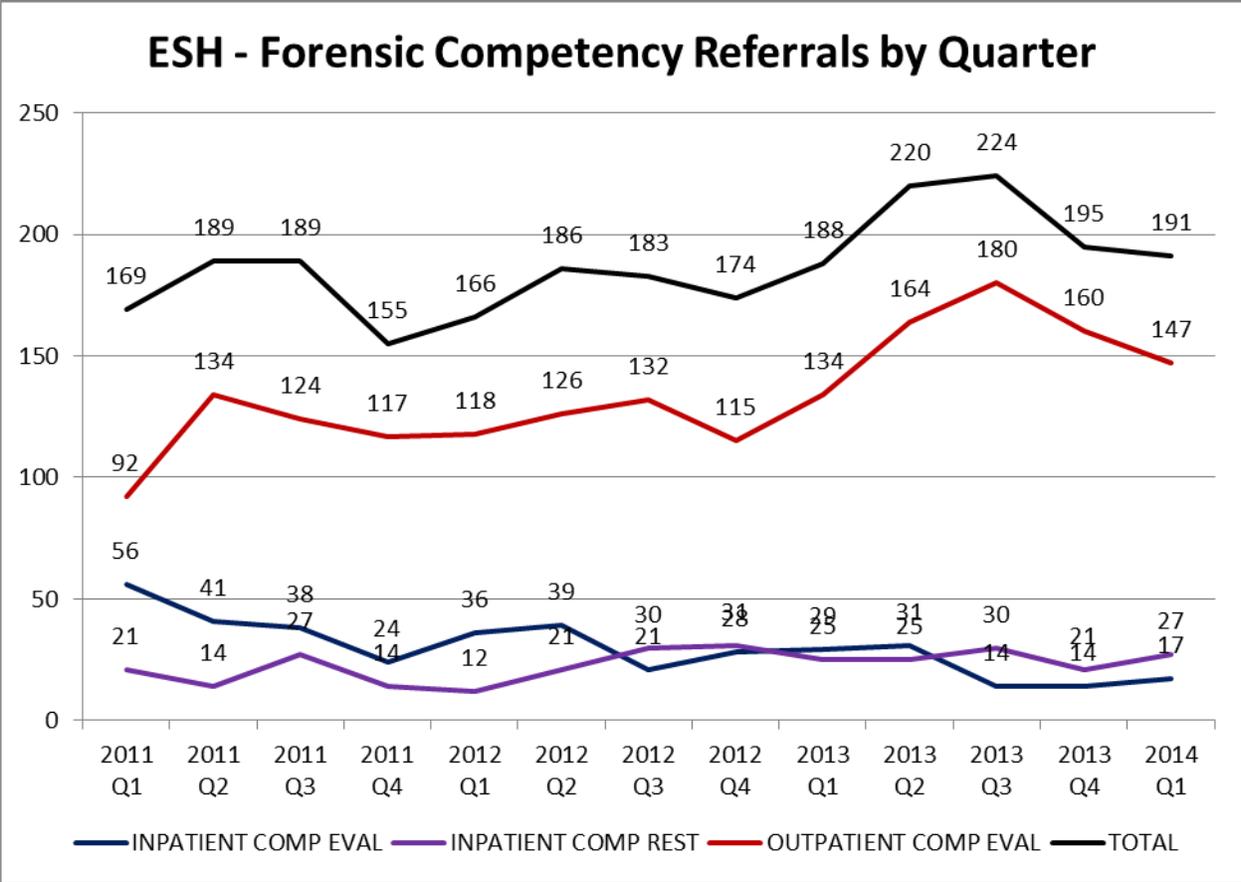
At WSH, the first quarter of 2014 had the second highest rate of referral on record and projects out to more than a 10% annualized growth rate for the year. Both ESH and WSH continue to have long waitlists, and are significantly deviating from performance targets.

Both hospitals have significant physical capacity issues in addition to shortages of psychiatrists, nurses, and evaluators. Several factors have combined to exacerbate the capacity issue, including:

- Amendments to RCW 10.77.068 creating the need for additional secure placements for violent patients whose criminal charges were dismissed due to incompetence
- An increasing population of patients found not guilty by reason of insanity (NGRI)
- An increase in the rate of competency restoration referrals (e.g. WSH's referrals rose from 584 in 2012 to 687 in 2013).

## WSH - FORENSIC COMPETENCY REFERRALS PER QUARTER





Western State Hospital

In the period between 2010 and 2011, the strongest predictor of waitlist length was the number of unfilled psychiatry and psychology positions. In the current quarter, Western State Hospital continued to have unfilled positions in both psychiatry and psychology. In addition, DSHS has submitted a Decision Package requesting three additional evaluator positions. Continued growth in the waitlist may also reflect that there other factors at work such as increasing numbers of very low functioning chronically mentally ill persons being referred for competency restoration.

Eastern State Hospital

ESH's waitlist continued to increase this quarter. Productivity remains constant among the evaluators when taking into account vacations and personal illness. Since the implementation of SB 6492 in May 2012, ESH has seen an increase in the number of referrals for offsite competency evaluation, which correlates with an increase in the number of competency restoration orders. ESH evaluators continue to follow their patient through the process from forensic to civil conversion.

ESH has one 25 bed admission ward where all admissions to the forensics unit are screened and evaluated. Patients committed under a NGRI order are admitted here first for initial assessment to determine which long term ward is most appropriate. The two long term wards, with populations of 30 and 40, remain at capacity – with no room to accept newly committed NGRI patients. This admission ward is also where patients who are determined unable to regain competency remain hospitalized until the order for civil commitment is granted.

## ANALYSIS

### Performance Targets

SSB 6492 became effective as of May 1, 2012. Performance targets related to defendants being detained in-custody or awaiting admission into the State Hospitals were phased in over six months, becoming fully effective on November 1, 2012. Targets related to evaluations of out-of-custody defendants became effective May 1, 2013.

#### **Target #1:**

**(i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial, seven days or less;**

For the WSH in-custody (detention) unit, 8% of defendants charged with felonies, and 6% of defendants charged with misdemeanors were seen within statutory time guidelines. Average productivity per evaluator continued to improve this quarter. Evaluators assigned to the corrections and community evaluation team rotated through the inpatient unit, performing the number of evaluations expected of one full time evaluator.

ESH has been unable to sustain this requirement. The increase in the number of offsite competency evaluations has been greater than anticipated based on past years' numbers. The increase in competency evaluations correlates to an increase in competency restoration orders received. The restoration orders take precedence at ESH over competency evaluations.

## Western State Hospital - 6492 QUARTERLY REPORT - DATA

### Average Time to Target -- 1st Quarter 2014

Inpatient Evaluations	Referrals Received	Number Admitted	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Evaluations	36	36	25.89	4	11.11%
Misdemeanor Inpatient Evaluations	11	6	24.00	0	0.00%
All Inpatient Evaluations	47	42	25.62	4	9.52%
Inpatient Restorations	Referrals Received	Number Admitted	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Restorations	153	150	17.83	49	32.67%
Misdemeanor Inpatient Restorations	29	22	22.59	1	4.55%
All Inpatient Restorations	182	172	18.44	50	29.07%

## Eastern State Hospital - 6492 QUARTERLY REPORT - DATA

### Average Time to Target -- 1st Quarter 2014

Inpatient Evaluations	Referrals Received	Number Admitted	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Evaluations	8	5	122.00	0	0.00%
Misdemeanor Inpatient Evaluations	8	4	39.00	1	25.00%
All Inpatient Evaluations	16	9	85.11	1	11.11%
Inpatient Restorations	Referrals Received	Number Admitted	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Restorations	24	22	30.00	6	27.27%
Misdemeanor Inpatient Restorations	3	3	13.00	0	0.00%
All Inpatient Restorations	27	25	27.96	6	24.00%

**Target #2:**

- (ii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody, seven days or less;**

Both WSH and ESH continue to be unable to meet this requirement. Competency evaluations for defendants in pretrial custody are scheduled out several weeks as the number of referrals continues to increase and the need for additional evaluators remains.

<b>Western State Hospital - 6492 QUARTERLY REPORT - DATA</b>					
Average Time to Target -- 1st Quarter 2014					
<b>Outpatient Jail Evaluations</b>	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Outpatient Jail Evaluations	151	156	19.60	12	7.69%
Misdemeanor Outpatient Jail Evaluations	297	278	16.76	17	6.12%
All Outpatient Jail Evaluations	448	434	17.77	29	6.68%

<b>Eastern State Hospital - 6492 QUARTERLY REPORT - DATA</b>					
Average Time to Target -- 1st Quarter 2014					
<b>Outpatient Jail Evaluations</b>	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Outpatient Jail Evaluations	56	59	79.00	0	0.00%
Misdemeanor Outpatient Jail Evaluations	40	37	39.00	2	5.41%
All Outpatient Jail Evaluations	96	96	63.58	2	2.08%

**Target #3:**

- (iii) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, twenty-one days or less.**

Both WSH and ESH are unable to sustain this requirement. Competency evaluations for defendants out of custody continue to take a considerable amount of time to schedule. Hospital staff coordinate appointments with the evaluator, the attorney and the defendant. There are occasions where the defendant is not in contact with their attorney of record which delays the scheduling process. On occasion the attorney is not available when the evaluation is first attempted for scheduling and this further delays the process. ESH has aligned with WSH practice and issues a Case Status Report to the presiding court after one failed attempt for competency evaluation.

### Western State Hospital - 6492 QUARTERLY REPORT - DATA

Average Time to Target -- 1st Quarter 2014

Outpatient P.R. Evaluations	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 21 Days	Percent Completed Within 21 Days
Felony Outpatient P.R. Evaluations	29	28	88.96	3	10.71%
Misdemeanor Outpatient P.R. Evaluations	116	142	87.16	8	5.63%
All Outpatient P.R. Evaluations	145	170	88.74	11	6.47%

### Eastern State Hospital - 6492 QUARTERLY REPORT - DATA

Average Time to Target -- 1st Quarter 2014

Outpatient P.R. Evaluations	Referrals Received	Number Evaluated	Average Days Until Completion	Number Completed Within 21 Days	Percent Completed Within 21 Days
Felony Outpatient P.R. Evaluations	20	22	93.00	0	0.00%
Misdemeanor Outpatient P.R. Evaluations	31	30	70.00	0	0.00%
All Outpatient P.R. Evaluations	51	52	79.73	0	0.00%

#### Additional Data

WSH - Outpatient Withdrawn*			WSH - Outpatient TIC**		
JAIL	Felony	7	JAIL	Felony	8
JAIL	Misdemeanor	22	JAIL	Misdemeanor	7
P.R.	Felony	5	P.R.	Felony	0
P.R.	Misdemeanor	58	P.R.	Misdemeanor	1

ALL Withdrawn	92	All TICs	16
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ESH - Outpatient Withdrawn			ESH - Outpatient TIC		
JAIL	Felony	0	JAIL	Felony	0
JAIL	Misdemeanor	0	JAIL	Misdemeanor	0
P.R.	Felony	0	P.R.	Felony	0
P.R.	Misdemeanor	0	P.R.	Misdemeanor	0
ALL Withdrawn		0	All TICs		0

\* Withdrawn - When the court withdraws the order before the evaluation can be completed

\*\* TIC (Transfer to Inpatient Care) - When the evaluator cannot complete the evaluation in jail and requests to have the individual moved to inpatient for evaluation.

WSH - Average Time to Civil Conversion -- 1st Quarter 2014 ***					
Inpatient 72 Hour Civil Commitment (CC)	Number Referred	Number Admitted	Average Days Until Admission	Number Admitted Within 3 Days	Percent Admitted Within 3 Days
Felony Inpatient 72 CC	27	26	4.38	8	30.77%
Misdemeanor Inpatient 72 CC	9	8	3.00	4	50.00%
All Inpatient 72 CC	36	34	4.06	12	35.29%

ESH - Average Time to Civil Conversion					
Inpatient 72 CC	Number Referred	Number Admitted	Average Days Until Admission	Number Admitted Within 3 Days	Percent Admitted Within 3 Days
Felony Inpatient 72 CC	0	0	n/a	n/a	n/a
Misdemeanor Inpatient 72 CC	0	0	n/a	n/a	n/a
All Inpatient 72 CC	0	0	n/a	n/a	n/a

\*\*\* Civil Conversion - Charges have been dismissed

WSH - Size of Current Evaluation Backlog (04/01/2014)		
Inpatient	Number Waiting	# Waiting > 7 Days
Felony Inpatient Evaluation	6	6
Misdemeanor Inpatient Evaluation	2	1
Felony Inpatient Restoration	26	22
Misdemeanor Inpatient Restoration	5	5

<b>Outpatient Jail</b>	Number Waiting	# Waiting > 7 Days
Felony Jail Evaluation	14	6
Misdemeanor Jail Evaluation	37	10
<b>Outpatient P.R.</b>	Number Waiting	# Waiting > 21 Days
Felony P.R. Evaluation	16	8
Misdemeanor P.R. Evaluation	68	36

<b>ESH - Size of Current Evaluation Backlog (04/01/2014)</b>		
<b>Inpatient</b>	Number Waiting	# Waiting > 7 Days
Felony Inpatient Evaluation	4	3
Misdemeanor Inpatient Evaluation	2	2
Felony Inpatient Restoration	3	0
Misdemeanor Inpatient Restoration	0	0
<b>Outpatient Jail</b>	Number Waiting	# Waiting > 7 Days
Felony Jail Evaluation	28	28
Misdemeanor Jail Evaluation	16	16
<b>Outpatient P.R.</b>	Number Waiting	# Waiting > 21 Days
Felony P.R. Evaluation	9	9
Misdemeanor P.R. Evaluation	10	10

RCW 10.77.068 (1)(c) includes a non-exclusive list of factors outside of the department's control that could impact performance targets. Evaluator resources were the overwhelming determinant of timeliness. At WSH, the individual evaluators continue to significantly surpass productivity standards.

However, there were significant additional delays related to the courts, detention centers, and community partners.

In the current quarter, the database was modified such that days of delay could be tracked, whereas previously we had tracked only the presence or absence of outside delays. The following table reports only those delays that occur after a referral is considered complete. The table also fails to account for delays that occur due to issues such as counties calendaring transports only on certain days, as the hospital offers admission on days that the counties transport.

WSH - Delay Factor			
	All Days Waiting	Days Delayed	% of Days Waiting
Inpatient Admissions	4490	64	1.4%
Outpatient Evaluations	17622	1234	7.0%

ESH - Delay Factor			
	All Days Waiting	Days Delayed	% of Days Waiting
Inpatient Admissions			NOT TRACKED
Outpatient Evaluations			NOT TRACKED

## PLAN FOR MEETING TARGETS

The number of evaluations completed by the two state hospitals has increased. With the passage of Senate Bill 5551 in 2013, the legislature also added evaluation capacity in the form of reimbursement to counties when they contract for the use of evaluators independent of the state hospital to complete evaluations. Pierce County is having some success with this option because they have a cadre of ex-WSH evaluators available.

During the first quarter of 2014, WSH and ESH have developed comprehensive performance improvement plans based both on the preliminary observations of the JLARC and on the input of the professionals performing the evaluations. Some aspects of the plans have been initiated, and measurable results are projected for the third and fourth quarters of 2014.

### Increasing per-evaluator productivity

#### Western State Hospital

Over the past year, per-evaluator productivity has increased significantly. In the presence of significant waitlists, evaluators were able to exceed productivity guidelines by approximately 15%. However, as the waitlists are reduced, we anticipate losing one of the major efficiencies contributing to this high rate of production. Currently, when evaluators travel to distant counties, they select two to three referrals to interview on one trip. Travel

time will consume a greater proportion of evaluator time when the waitlists are reduced and this will likely have a measurable effect on productivity.

#### Eastern State Hospital

ESH's monthly productivity standards are being met by all evaluators. There continues to be one evaluator assigned to inpatient competency evaluations. ESH is not currently looking at increasing per-evaluator productivity. ESH recently hired an additional psychologist for offsite competency evaluations. There are now seven offsite evaluators and one inpatient evaluator.

### **Management of Bottlenecks**

#### Western State Hospital

Historically, the rate limiting factors for admissions and evaluations were shortages of psychiatrists and evaluators. The hospitals kept pace with a decade of continuously increasing referrals by conducting a higher proportion of evaluations in the community or in detention centers. Due largely to staff shortages, there were periods in 2013 in which there were as many as 20 vacant beds at the Center for Forensic Services. With increased rate of production by evaluators, combined with the additional psychiatry resources the hospital was running at full capacity by the third quarter of 2013. The passage of HB 1114 in 2013 is likely to increase bed utilization at the Center for Forensic Services. HB 1114 allows for the transfer of individuals who cannot be restored to competence to inpatient civil commitment units at WSH or ESH. This will impact the waitlist numbers for evaluation and restoration admissions. WSH leadership is evaluating options for accommodating patients committed under HB 1114. The hospitals capacity issues are further strained by an increase in the rate of NGRI referrals and a decrease in the rate of discharging NGRI patients as the State has increased its focus on public safety.

Western State Hospital has several current initiatives that may impact bed availability, including increased use of evidence based models of competence restoration, more stringent utilization review, and a pending Value Stream Map project aimed at increasing the efficiency and effectiveness of the admission and transfer process.

#### Eastern State Hospital

The ESH Forensic Services Unit Clinical Director and Director of Psychology continually review assignments to determine which tasks can be accomplished by psychologists or by other staff who are not assigned competency evaluations.

All forensic evaluators are responsible for completing Forensic Risk Assessments and completing petitions for conversion to civil commitment for those patients they evaluated for competency and went through the restoration process.

Evaluation of the scheduling process and how to schedule evaluator time more efficiently will be done by administrative staff, looking at grouping close communities and having one evaluator spend days at a time in one location rather than commuting to a multitude of distant locations.

ESH is restructuring the duties of the Program Specialist 4 to include the functions of data collection, management and reporting forensic data. This position will work closely with WSH, headquarters and JLARC staff on reports, tracking trends and ensuring identified efficiencies are attained and maintained.

### **Increased use of Technology**

Both hospitals are exploring the possibility of whether video-conferencing could be an effective way to reduce travel time for in-jail evaluations. Research suggests telemedicine can be reliable and effective. Grays Harbor County Detention Center has been identified as a potential pilot site, as they are already using telemedicine to serve the mental health needs of inmates.

### **Recruitment and Retention**

#### **Western State Hospital**

In 2012, there were approximately 3000 referrals to Western State Hospital's Center for Forensic Services. There were over 3300 referrals in 2013. The 22 currently allocated positions would have to average well in excess of productivity standards to match the rate of referral.

After having three vacant evaluator positions through much of 2013, WSH approached full staffing in the fourth quarter. One evaluator position opened in the first quarter of 2014, and no qualified applicants applied during the quarter. The hospital is likewise seeing an increase in the number of psychiatry vacancies. The Western State Hospital CEO has also approved creative strategies to permit recruiting in front of projected vacancies and to hire non-permanent employees during recruitment. These strategies have had an impact, and are projected to have an ongoing impact with several of the evaluators are either currently eligible

for retirement or becoming eligible this year. Over the long term, the hospital continues to evaluate the possibility of regional offices in the communities it serves, potentially expanding the recruiting base. As an interim measure, the Department has also allocated resources pursuant to SB 5551, addressing the staffing shortage by sharing costs with counties that wish to hire contract evaluators.

#### Eastern State Hospital

ESH continues to recruit for additional competency evaluators – both psychology and psychiatry. Salary continues to be a significant barrier to recruitment. Location has also been cited as a factor, as several candidates have indicated a desire to live and work in Washington State but prefer the west side. A search for clinical psychologists in the Tri-Cities produced no results. ESH was successful in recruiting one psychologist to conduct offsite competency evaluations in 2014.

One psychiatrist vacancy will be filled on October 1 on the Forensic Services Unit. The hospital is still in the process of recruiting for psychology vacancies and a nationwide recruitment effort is being developed by Human Resources to promote ESH to a wider audience.

### **Plans for Meeting Requirements to Assure Patients do not Spend Unnecessary Days in Hospital**

Following the implementation of RCW 10.77.068, WSH formalized procedures around periodic communication between treatment teams and evaluators, and set standards for timeliness of evaluator response when a treatment team referred a patient for formal forensic evaluation. The LEAN Value Stream Mapping project focused on forensic restoration that was projected to occur during this quarter will now occur in the first quarter of 2014. Objectives include streamlining the admissions process, identifying specific barriers to competence, individually planning treatment to address barriers, assuring ongoing assessment, and improving communication between the psychiatric treatment team, the rehabilitation and psychoeducation team, and the evaluation team.

## **Request for Appropriations**

RCW 10.77.068 (1)(a) requires the hospital to request additional resources if necessary to meet performance goals. In last quarter's report, it was noted that at current productivity levels, full staff and two additional evaluators would be sufficient to eliminate the waitlist within one year.

DSHS recently submitted two Decision Packages to address challenges. In response to the 2014 JLARC report, funds for 3 additional evaluators to be stationed in counties with high referral rates were requested. In addition, funding for two Headquarter FTEs was also requested: 1 FTE to focus on consistent and accurate data collection and analysis across all 3 hospitals; and 1 FTE in charge of the three hospitals external relations and internal and external training specific to forensics.

## **CONCLUSION**

Substitute Senate Bill 6492 was adopted largely in response to a crisis of rapidly growing referrals and extraordinary wait times for defendants awaiting evaluation at the State Hospitals. Relative to wait times when the bill was passed, there have been reductions in the wait list, and increases in evaluator productivity. Nevertheless, average wait times continue to exceed the performance targets of seven days. And, only a relatively small percentage of evaluations are conducted within the required timeframes. Recruitment and retention continue to be major challenges, and increases in evaluator productivity were offset by vacancies. Vacancies have been predictable and persistent, and options such as over-filling may be supported by the current patterns. It appears unlikely that there will be significant change in the underlying market forces creating shortages of evaluators. Thus, the hospitals are actively pursuing alternative strategies and more efficient allocation of existing resources.