

**REPORT TO THE LEGISLATURE**

**Forensic Admissions and Evaluations – Performance Targets 2016  
Fourth Quarter (October 1, 2016-December 31, 2016)**

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

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## EXECUTIVE SUMMARY

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

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

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

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

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

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

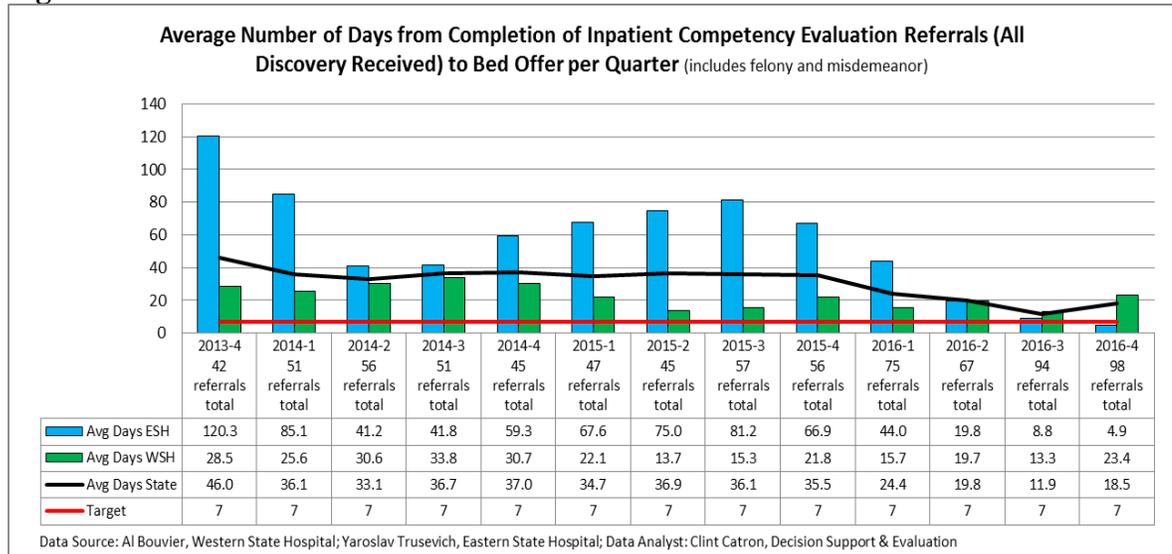
Section (1)(b) of RCW 10.77.068 establishes the beginning and end points for applying the performance targets and maximum time limits set forth above. Section (1)(c) identifies six conditions that shall serve as defenses to an allegation that the department has exceeded the maximum time limits.

As mandated by RCW 10.77.068(3), the following quarterly report explains the extent to which the hospitals deviated from performance targets in Quarter four of 2016 (October 1, 2016-December 31, 2016), and describes the plans to meet these performance targets.

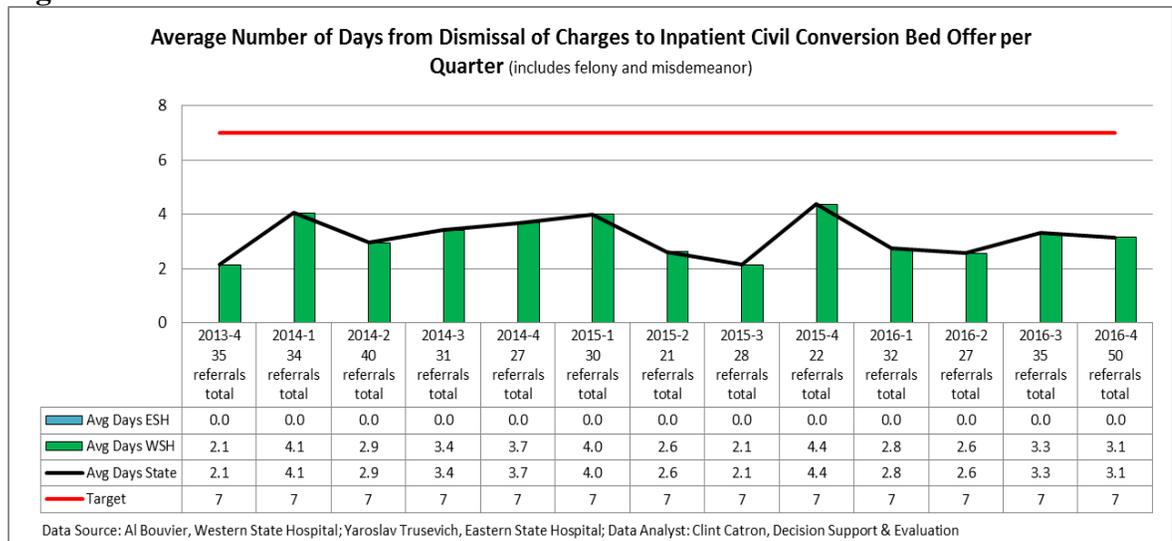
## COMPETENCY EVALUATION AND RESTORATION DATA

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

**Figure 1**

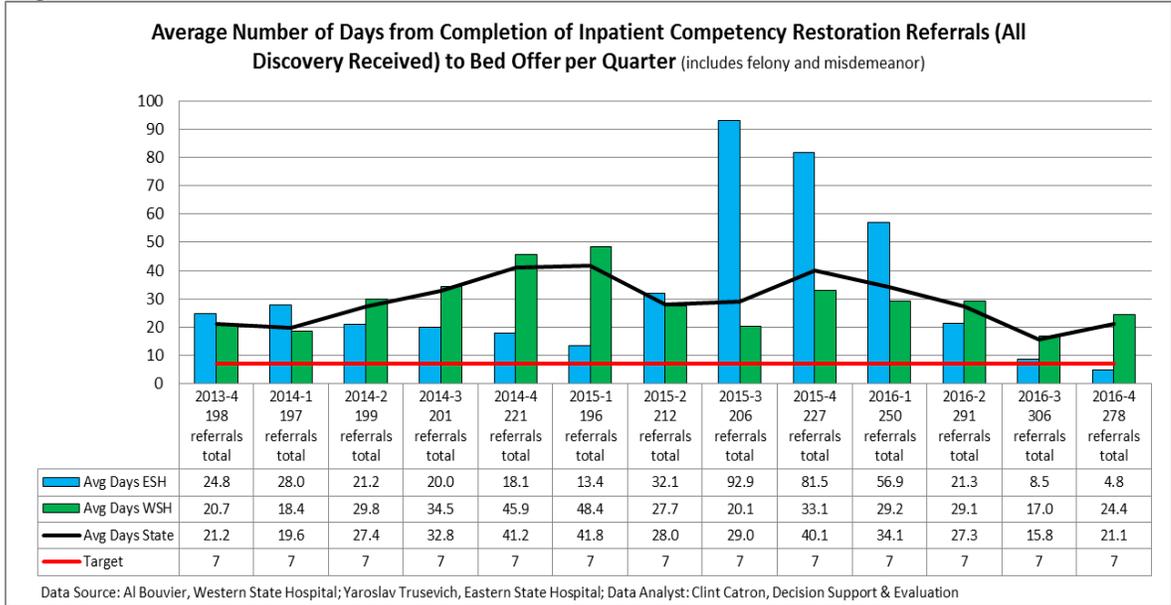


**Figure 2**



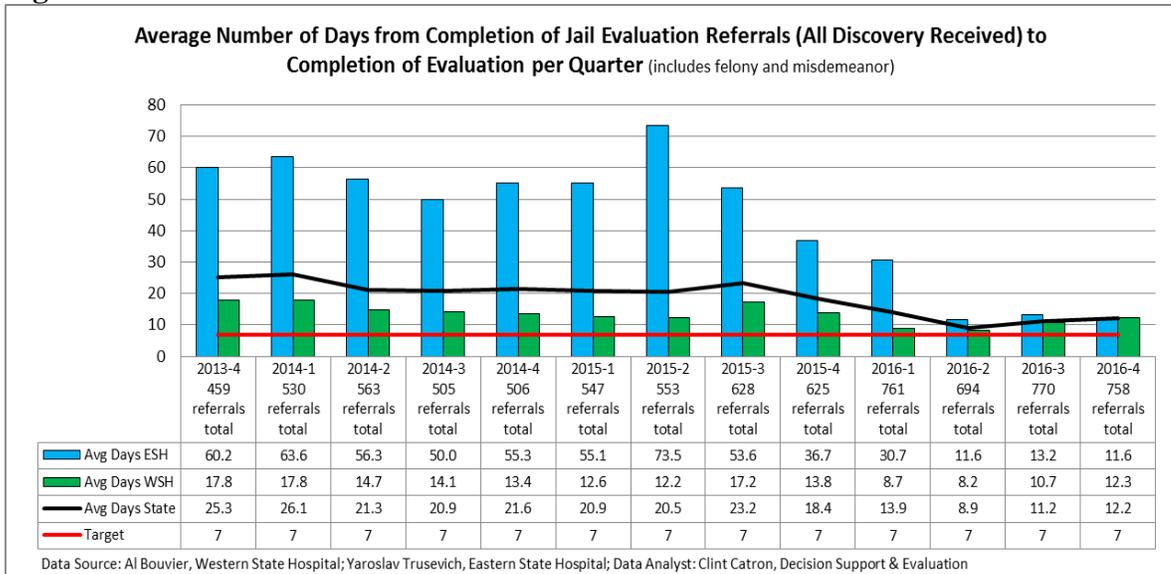
RCW 10.77.068(1)(a)(ii) establishes a performance target for a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency in seven days or less. Figure 3 below shows results for competency restoration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

**Figure 3**



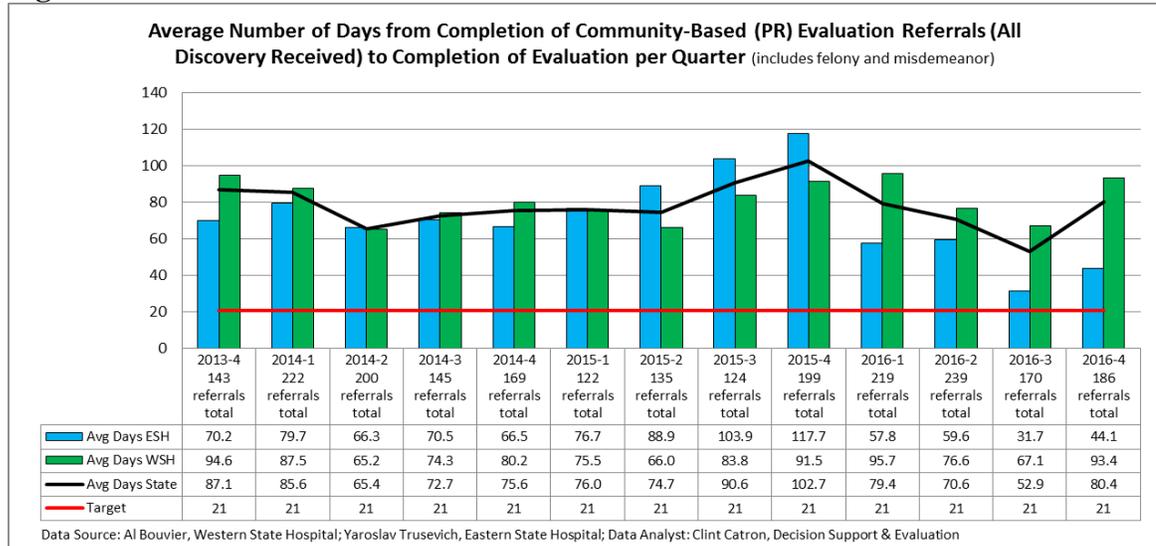
RCW 10.77.068(1)(a)(iii) sets a performance target that competency evaluations for a defendant who is in jail will be completed and distributed within seven days or less. Figure 4 shows results for this reporting period.

**Figure 4**



RCW 10.77.068(1)(a)(iv) sets a performance target that competency evaluations for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation will be completed and distributed within twenty-one days or less. Figure 5 shows results for this reporting period.

**Figure 5**



**Summary points:**

**Note:** This report provides key highlights; however, additional information/detail can be found at <https://www.dshs.wa.gov/bha/division-behavioral-health-and-recovery/trueblood-et-al-v-washington-state-dshs> to review the most recent Trueblood court report.

- Figure 1:** The average number of days to bed offer for inpatient evaluation orders from receipt of discovery increased to 18.5 days in quarter four of 2016, which is an increase from 11.9 days in the previous quarter (an increase of 6.6 days). However, it is lower than bed offers in previously reported quarters. Referrals increased in quarter four from 94 to 98 total. ESH average time in quarter four decreased from the previous quarter from 8.8 days to 4.9 days (a decrease of 3.9 days). WSH average time increased from previous quarter of 13.3 days to 23.4 days (an increase of 10.4 days). The decrease at ESH can likely be attributed to the management of the added bed capacity (27 beds in the last year) and active outreach to community partners by the forensic center director, Karen McDonald. For WSH, the increase is due to operating at maximum capacity with not enough available bed capacity to meet increasing referrals.
- Figure 2:** For both hospitals, patients receive an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial within 3.1 days on average. This is

fewer than the requirement of seven days and this target has continually been met since the fourth quarter in 2013.

- **Figure 3:** The average number of days to bed offer for restoration orders from receipt of discovery increased to 21.1 days in quarter four of 2016, though this number is still lower than most previously reported quarters from 2013 forward. This was an increase from 15.8 days in quarter three, however it is still a notable decrease in time to bed offer compared to quarter one of 2016 (34.1 days) and quarter two of 2016 (27.3 days). WSH increased its number of days to bed offer from 17 days in quarter three 2016 to 24.4 days in quarter four 2016 (an increase of 7.4 days), and ESH reduced its number of days to bed offer from 8.5 in quarter three to 4.8 days in quarter four 2016 (a decrease of 3.7 days). There were a total of 278 referrals in quarter four of 2016, which is a decrease from 306 referrals in quarter three of 2016. The increase at WSH is likely due to the rise in competency restoration referrals and operating at capacity. The decrease at ESH is attributed to ESH having focused bed management and staffing and adding 27 beds in the last year.
- **Figure 4:** During quarter four of 2016, the average number of days to complete statewide jail-based evaluation orders from receipt of discovery was 12.2. This average is a slight increase from the previous quarter (11.2) but lower than nearly all quarters since 2013. There was a slight decrease in referrals from quarter three (770) to quarter four (758) of 2016 (a decrease of 12). Minimal vacancies exist across the State (four during quarter four of 2016) which likely contributes to the increased completion time. Furthermore, evaluators have been reminded of extra duty pay as it relates to the Collective Bargaining Agreement.
- **Figure 5:** The time it took from referral for Personal Recognizance evaluation to completion in the fourth quarter of 2016 was 80.4 days, a combined average for both State Hospitals and an increase from 52.9 days the previous quarter. WSH's longer response time was likely due to a number of resources being assigned away from personal recognizance to instead focus on Trueblood in-custody evaluations. WSH reported that 20% of their evaluations were delayed waiting for police reports; one outlier of 89 days (the court cannot locate the defendant) likely raising the average, which does not represent the majority of cases.

## DISCUSSION OF RESULTS

The data displayed on previous pages reflects continued progress in the past quarter for improving the timeliness of forensic services. With alternate sites for competency restoration established and ongoing efforts to address timeliness (see below for updates), the trend lines are variable but continue toward meeting established targets. Work to fully meet the performance targets and maximum time limits will continue as DSHS pursues plans to address any delays and deficiencies in order to meet the noted time frames.

Following the April 2, 2015 decision by the U.S. District Court for the Western District of Washington in the *Trueblood v. DSHS* litigation, DSHS provided detailed public updates on progress in a monthly report to the Court-Appointed Monitor, Dr. Danna Mauch. These reports are available on the DSHS website at: <https://www.dshs.wa.gov/bha/division-behavioral-health-and-recovery/trueblood-et-al-v-washington-state-dshs>.

In addition to these monthly reports, DSHS submitted a long-term plan to the Court in July, 2015 outlining 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 by May 27, 2016. Pursuant to the Court's February 8, 2016 order, DSHS revised the long-term plan and submitted this plan to the Court on May 6, 2016.

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

### A. Workforce

In July 2016 the Department identified an opportunity to increase timely restoration services through more expedited re-evaluations for those receiving restoration treatment. In order to implement this strategy, authority was granted to hire eight additional Forensic Evaluators and one Supervisor. Training is anticipated to take 60 to 90 days after which each new evaluator will contribute 12 additional evaluations per month. The Office of Forensic Mental Health Services also continued efforts to fill existing vacant positions. The status of all Workforce actions is indicated in the table below:

<b>Positions</b>	<b>Number to be Deployed</b>	<b>Current Status</b>
Forensic Evaluators—New Positions		
Western State Hospital	4	Hired as of October 2016
Eastern State Hospital	2	1 hired; 1 recruitment in progress
Thurston County Outstation	1	Recruitment in progress
Yakima Outstation	1	Recruitment in progress
Supervisor Position	2	Interviews and recruitment in progress
<b>Existing Vacancies</b>	<b>Number to be Deployed</b>	<b>Current Status</b>
Forensic Evaluator—North Region Office Weekend/Extended Hours	1	Filled effective 11/1/2016
Supervisor	1	Offer extended 10/2016 and awaiting response
Evaluator Support	1	Background/reference checks being made on top applicant; Offer made and accepted

#### B. Alternate Temporary Facilities

Two Residential Treatment Facilities (RTF's) were established to provide additional capacity and more timely admission for competency restoration treatment. The first RTF, opened in Yakima in March 2016, has capacity to serve up to 24 male patients at a time. As of December 31, 2016, the census at the Yakima Competency Restoration Program was 19 (79% occupancy). This was higher than the previous quarter when the facility was still in its infancy and is lower than the over 90% occupancy rates currently being experienced at Eastern and Western State Hospitals.

The second RTF, opened in Rochester at the Maple Lane facility in April 2016, has capacity to serve up to 30 patients at a time. As of December 31, 2016, the census at the Maple Lane Competency Restoration Program was 27 (90% occupancy) which was higher than the previous quarter when the facility was still new in its operations. This is slightly higher than the Yakima occupancy rate and lower than the hospital rate observed at both WSH and ESH.

## C. Technology

DSHS has launched a formal project to build an integrated Forensic Data system that will include consistent data entry and tracking of all class members from creation of court order for mental competency evaluation through completion of evaluation and/or restoration services. The new system will provide evaluators the ability to access discovery documents and any status changes, 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.

### Future Actions to Improve Timeliness and Quality

The Department's plans for continuing to improve the timeliness and quality of forensic services fall into *four* broad categories. The categories and associated updates are listed below:

#### **1. Increase evaluation capacity and timely access to evaluations**

As previously noted, eight additional evaluator positions were established and two vacancies remain. During the next quarter, attempts will be made to fill the remaining two positions. The competency restoration programming (Breaking Barriers) was updated/revised and in the next quarter training will occur at all sites to help with the early referral process (this will facilitate increases in bed turnover rates, allowing the Department to serve more individuals and work toward compliance).

#### **2. Explore opportunities to increase restoration treatment bed capacity**

Yakima and Maple Lane are showing successful outcomes in the first year of operation. The Department is evaluating other options for increasing capacity and will report on those efforts in Trueblood monthly reports and in subsequent 6492 quarterly reports. Additional capacity is dependent on funding and all available options will be explored and a document detailing what options are available, costs, and timeline for operations will be produced in the next quarter.

#### **3. Develop more robust and reliable data systems to better forecast demand for services and monitor program performance**

During the next quarter, IT systems will complete a project plan for the build of this system, hire and train any remaining staff positions, and hire a Quality Assurance consultant.

#### **4. Create opportunities to safely divert people with mental illness from arrest, prosecution or incarceration**

The Governor's Office executed a contract with Joplin Consulting to examine how to best divert persons with mental illness from the criminal justice system and identify appropriate funding mechanisms. Joplin Consulting started the process of interviewing key stakeholders and sending out a survey during August 2016. The final report was submitted in November 2016 and can be found at:

[http://www.governor.wa.gov/sites/default/files/documents/5\\_Jail%20Diversion\\_Joplin\\_SCQISH\\_11.22.16.pdf](http://www.governor.wa.gov/sites/default/files/documents/5_Jail%20Diversion_Joplin_SCQISH_11.22.16.pdf). Next steps are dependent upon the outcome of the 2017 Legislative Session and final budget decisions. In the meantime, the Department continues work on existing diversion efforts which include:

- Collaboration with Disability Rights Washington (DRW) and the Trueblood Court Monitor in July, 2016 to develop a contract with third parties who will use the contempt funds to divert class members out of the criminal justice system and into systems and programs better designed to treat class members' needs. An RFP was released by DRW in December, 2016. Proposals are due in early January, 2017 with expected start dates of July 1, 2017. For the next quarter, proposals will be reviewed and recommendations to the Judge will be made on what, if any, diversion programs should be funded.
- OFMHS participates in an Outreach and Re-Entry Committee lead by the Health Care Authority (HCA), which explores diversion options for individuals with behavioral health issues involved in the forensic system.
- OFHMS continued to fund four prosecutorial diversion programs during this quarter. In addition, DSHS issued a supplemental budget request in October 2016 to release the SB 5177 proviso dollars' unused federal funds as state funds. This will allow DSHS greater flexibility in funding diversion projects.

Lastly, in this quarter, the Governor reviewed all state agency budget requests and developed his budget proposal to the Legislature which focused heavily on diversion opportunities, placing civil patients in the community, and converting the State hospitals to forensic centers of excellence. For the next quarter, it is expected three of the four sites will provide first data report-outs at the end of January. Additionally, the Legislature will convene in the next quarter and will review the Governor's proposed budget, each house will submit their own budgets, and a final budget will be complete.

Project	Desired Outcomes	Start Date	Services Provided	Number Served	Notes
Spokane County – program focused on those with misdemeanor and low-level felonies	<ul style="list-style-type: none"> <li>- Reduction in arrests/convictions</li> <li>- Reduction in competency evaluation referrals</li> <li>- Successful completion of diversion requirements</li> <li>- Housing stability</li> </ul>	October, 2016	Liaising with prosecutors office, pre-trial services and jail; assessment and referral; care management, med management/monitoring; intensive supports	7	31 referrals made; 7 accepted into the program
Pacific County-program focused on misdemeanors	<ul style="list-style-type: none"> <li>- Reduction in arrests/convictions</li> <li>- Reduction in competency evaluation referrals</li> <li>- Successful completion of diversion requirements</li> <li>- Housing stability</li> </ul>	September, 2016	Liaising with prosecutors office and jail; care management, med management/monitoring; intensive supports; peer support	3	Program changed eligibility criteria as the assisted outpatient treatment outcome was too restrictive (change was made on 10/25/16)
King County-program focused on misdemeanors and low-level felonies	<ul style="list-style-type: none"> <li>- Reduction in arrests/convictions</li> <li>- Reduction in competency evaluation referrals</li> <li>- Successful completion of diversion requirements</li> <li>- Housing stability</li> </ul>	January, 2017	Liaising with prosecutors office; care management, med management/monitoring; intensive supports; respite beds; day support	0	Start date delayed because of inability to secure a provider
Greater Columbia-program focused on misdemeanors	<ul style="list-style-type: none"> <li>- Reduction in arrests/convictions</li> <li>- Reduction in competency evaluation referrals</li> <li>- Successful completion of diversion requirements</li> <li>- Housing stability</li> </ul>	November, 2016	Liaising with the prosecutor’s office and jail; MH assessment and treatment planning while in jail; initial and ongoing care coordination post release for up to one year (med management, SUD treatment, crisis intervention; limited capacity for housing)	7	11 referrals made, 7 accepted into the program

Next steps:

The Department will continue to work on three main areas to address compliance:

1. Capacity (restoration/evaluation capacity);
2. Throughput (early referral evaluations); and
3. Demand (Diversion).

Future reports will focus on: efforts to increase additional capacity for inpatient competency services; filling remaining evaluator vacancies; updating the competency restoration training; improving the referral process for competency restoration evaluations; and steps taken related to decreasing demand within various diversion programs.